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BY

Sir CECIL T. CARR, LL.D.

Let observation, with extensive view,
Survey mankind from China to Peru.
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Rome, British Council Representative (per British Council).
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Royal Empire Society.
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South Australia, The Hon. the Attorney-General.

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ANNUAL REPORT

THE year 1944 has been notable as marking the Jubilee of the Society, which was celebrated by a luncheon at the Savoy Hotel on December 18. A full report of the proceedings is published elsewhere in the present issue of the *Journal*, so that here it is sufficient to record the success of the occasion and to express appreciation of the cordial felicitations and expressions of goodwill which were extended to the Society. The gathering has been productive of most encouraging results.

The Society lost during the year its former Chairman, Lord Atkin, to whom a tribute was paid in the *Journal* (vol. XXVI, p. 61), and Sir Norman Hill, who had for many years been a member of the Council.

The publications of the Society resumed a more normal course though two parts are still sent out in one cover, and the amount of printed matter, although practically the same as in peace-time, is compressed into a much smaller space. The outstanding omission from the *Journal* was the "Notes on Imperial Constitutional Law" which for many years have appeared under the signature of Professor Berriedale Keith and constituted a well-known feature of these pages. The *Journal* has lost a valued and reliable contributor with an amazing capacity for work.

It was noted in the report of the year 1943 that arrears of subscriptions had been paid up, so that the amount under that heading was not so large in 1944. It was also observed that many subscribers had paid their subscriptions in advance, and this item was even larger in the accounts for 1944. The Committee have again to express their thanks to the Law Society for their continued support and to the British Council for their co-operation. In addition they are grateful for the grants made by the Governments of Fiji, Gold Coast, Mauritius, and Trinidad. On the other hand, there is a reduction in the amount received from Government subscriptions owing to economies effected by reducing the number of copies required. On the expenditure side of the accounts there was an apparent reduction owing to the fact that a number of the *Journal* was issued just before the end of the year and the account had not been rendered for it. The net result was that the balance at the end of the year was almost the same as in the previous year.

The Committee have had pleasure in welcoming to the Council Mr. Justice Cohen, Mr. J. A. Calder, the Senior Crown Agent for the Colonies, and Mr. H. H. Duncan, Legal Adviser to the Dominions and Colonial Offices. The latter two and Dr. C. K. Meek have also been added to the Executive Committee.

At the close of the year the Committee received with deep regret the resignation of Dr. Goadby, who for twelve years had edited the *Journal* of the Society and written the Introduction to the Review of Legislation. His broad legal knowledge had illuminated its pages and maintained a standard worthy of the Society. The appointment of his successor does not fall within the year under review, but the Committee are happy to have the prospect of securing successors in both capacities who will be welcomed with general acclaim.

Jubilee Luncheon of the Society

THE Society held a Luncheon at the Savoy Hotel on December 18 to celebrate the Jubilee of its foundation. After the gathering had honoured the Toast of the King and Allied Nations the President called upon Lord Simon.

The Lord Chancellor said:

" Your Excellency, my Lords, Ladies, and Gentlemen. I feel much satisfaction in being asked to be here to-day and to join in the celebration of the Jubilee of this Society. The Executive Committee in general, and Lord Macmillan in particular, are to be much congratulated on this large and representative attendance. I would like at once to remind each one of you that the Treasurer of the Society will be waiting at the door to secure from you an annual subscription before you depart.

" The Society of Comparative Legislation was founded fifty years ago. At its initial meeting there presided a former Lord Chancellor, Lord Herschell, who, as it happens, was the first public man whose acquaintance I made while I was still an undergraduate at Oxford. But the real founder of the Society was Sir Courtenay Ilbert, another early acquaintance of mine, to whose warm friendship and wise counsel over many years I owe more than I can say. Ilbert, I think, never attained the high place in public estimation which his qualities, both of head and of heart, abundantly justified, and I hope you will excuse me, ladies and gentlemen, and not think that I am departing from my text, if I spend a few minutes now in saying something about him. I do so because I have such respect for his qualities, and, let me add, because Lady Ilbert and he in my early days, when I was a quite unknown struggling young man at the Bar, a junior who was about to enter Parliament, showed me more warm-hearted kindness than I could ever describe.

"Now, Ilbert was a fine scholar if ever there was one. He came from Marlborough to Balliol; he was a Fellow of Balliol; he won in succession each of the three great classical prizes of the University, the Hertford scholarship, the Ireland scholarship, and the Craven scholarship. During the short time that he was still teaching in Oxford he had as one of his pupils Henry Herbert Asquith. He came down from the 'Varsity and went to Lincoln's Inn. He was beginning to acquire a considerable practice there, when he was induced to undertake a great appointment, the appointment of Law Member of the Government of India. It is the third greatest post in British India: the Viceroy the first, the Commander-in-Chief the second, the Law Member the third. For five years he laboured in that continent. With his immense accomplishments and devotion he will always hold an honoured place in the history of Indian development. The Viceroy was Lord Ripon, a reforming Viceroy. And it fell to Ilbert, who was a man of advanced political views all his life, to undertake some very difficult legislation in India and to incur a great deal of odium, especially because of a Bill which he drafted and carried called the Ilbert Bill. He attained so complete a knowledge of the whole Indian system that when he came back home he wrote a book, still much used by practitioners and students, on the Government of India. I remember well when F. E. Smith and I were undergraduates together, how we spent part of a Long Vacation as rollicking guests in his very cheerful household, and how, when the weather was too bad to go out, Ilbert showed me some chapters of his book, which he was then engaged in writing.

" He returned to this country to become, first of all, second-in-command in what was a new department—in the Parliamentary Counsel's office—for, until recently, Acts of Parliament had not been drafted in a special Department of State, but one sent down to Lincoln's Inn and got for the occasion a man of your choice, who, no doubt, did his service very well, but not, of course, with the ability to maintain a constant standard and phraseology which it is part of the object of the Parliamentary Counsel's office to secure. Ilbert went there when the department was being organized by a really great draftsman, who was

afterwards known by the name of Lord Thring. The particular qualities of Ilbert's mind, its penetration, its precision, its good sense in judging between two views, operated in the most surprising degree to improve the output, in form as well as in substance, of our legislation. What English lawyers know as the Interpretation Act was mainly due to Ilbert's sense of tidiness in nomenclature. To take a much later case, I think if the truth were known the provisions of that very great Constitutional Statute—which everybody now accepts, but which, when I was younger, was the centre of the fiercest controversy—the Parliament Act of 1911, was due, in quite an exceptional degree, to Ilbert's acumen and clear head.

" Then, as the last stage in his public career for some ten years, Sir Courtenay Ilbert, after being the head of the department, became Clerk of the House of Commons, the most erudite and the most accessible official that one can imagine in such a position.

" You will forgive me, ladies and gentlemen, for thus celebrating his praise. He really is the spirit that called this Society into being. He never lost his interest in its work, and, as I have confessed frankly to you, I have my special reasons for wishing that his name should be honoured and not forgotten. If I were to sum up his qualities, this is the man: He had an acuteness of mind in dealing with any legal question that was very striking, and he combined with that a charm of character and a range of knowledge which were truly remarkable. Some qualities he did not possess. He was quite incapable of advertisement: he never pushed himself. He did not, I think, take kindly to public controversy, but he is one of the servants of the State whom we should all wish to honour.

" I would like to mention two others whom I knew well and who had much to do with the early days of this Society. One is Edward Manson and the other is Sir John Macdonell. Certainly, when we were a small company, for I was elected to the Executive Committee long, long ago, they were senior men, who were contributing their very best to what we realize is a very important part of the work of the world connected with legislation.

" This leads me to make another remark, the only one I will make about the work of the Society. It seems to me, as I know it did to Ilbert, and, indeed, he so expressed it in one of his books, that it is very important for those of us who have a connection with or an interest in the development of the law to realize the true relation between Statute law and Common or customary law. If you were to take the view of the lawyers of the eighteenth century, or even later, our common law (which Coke called the perfection of reason, though it contained some pretty horrible provisions at the time) is merely entrenched upon by a series of spasmodic and perhaps ill-judged advances by the all-powerful Legislature. And so you have this amalgam, this crossword puzzle which Lord Macmillan and I, from time to time, with due solemnity, attempt to solve or to unravel. I have sometimes wondered whether anything could be done to bring out the true connection between the two conceptions. In England and Scotland, at any rate, a judge, in construing a Statute, is not entitled to know what was said when the Bill was proposed. I doubt if that rule obtains with equal strictness in all the countries of Europe, but that is our English rule. There is the Statute: construe the language which it employs. You may speculate, if you please, on what was the defect which the Act is designed to remove: but that is all you may do. Indeed, if you have any hazy recollection of the Parliamentary debates, please wipe it out of your mind, for a truly impartial judge in this country must construe the words of the section without any historic or extra-statutory explanation or illumination.

" I wonder if that is the very best and most scientific system that could be devised. Has the device been considered of appointing at the beginning of each Parliament, a committee of Members, grave and reverend seniors from both Houses, with, of course, an adequate admixture of lawyers, to draw up in respect of any considerable or complicated Bill, a short prefatory document, which could

expound the purpose and intended effect of the Bill and would be lawfully printed as an introduction to it? I do not mean that this preface would carry equal authority with the text of the Statute. It would be like the Apocrypha—for edification rather than for literal inspiration. But I wonder whether such a system could be devised, so that those who have to deal with the Statute—whether the ordinary citizen whose rights are defined by it, or the judge who has to expound it—may, at any rate, read the explanation and give it such weight as he thinks proper, so that it would serve to secure that the intentions of Parliament, when it passed the Statute, were not entirely obscure, unknown, and disregarded.

"I see very distinguished jurists from other friendly countries round these tables. They will know, much better than I, whether such a plan would not bear some resemblance to the preface to some Continental enactments which are due to the *rapporteur*. Something of the sort, after all, was aimed at, I suppose, in ancient days, when sometimes a Statute consisted more of preamble than of enacting words.

"That I may not be misunderstood or impeached, I would wish to say at once that this is a private and unofficial reflection and speculation, not even a fixed expression of my own opinion. But it is the sort of problem which seems relevant to the student of comparative legislation.

"Now, ladies and gentlemen, it is time for me to propose this toast, which I do with great heartiness, and I am privileged to associate with it the name of my friend and colleague, Lord Macmillan. He, I might say, is a walking example of comparative legislation. When, in the House of Lords, we are hearing an English appeal, it not infrequently happens, when we are closeted together and no one can overhear us, that the voice of Lord Macmillan is raised to point out how superior are the provisions which are to be found well-established in Scots jurisprudence. On the other hand, if we happen to be hearing an appeal from the Court of Session, with what reverence are its latest pronouncements received by those who have had the great advantage of receiving their legal education north of the Tweed.

"If, therefore, you want to see a working model of comparative legislation, come to the House of Lords! The doors are open, as they ought to be in all English courts, unless, indeed, the highest reasons of State for the moment require them to be shut. There, you will see comparative legislation *in excelsis*—each side, I must add, maintaining to the end that its native system is the better.

"I congratulate Lord Macmillan very much on our meeting to-day. It ought to have been to-morrow, I believe, but we have hit the actual day of Jubilee pretty nearly. He is a man of the highest public spirit. He has undertaken the Chairmanship of the Executive and has thrown his own thought and energy into promoting the progress of the Society. We are all greatly obliged to him.

"I beg, in the name of the company, to wish all possible good to the work of the Society in the future, and I propose the Toast of the Society coupled with the name of Hugh Macmillan."

Lord Macmillan, in responding, said:

"Mr. President, your Excellency, my Lords, Ladies, and Gentlemen. True to the spirit of the Society of Comparative Legislation, I indulged, in preparation for this commemorative occasion, in a little research, and as a result of my studies in Hebrew Law I have discovered the true character of a jubilee. If you consult that interesting and most important code, the Book of Leviticus, you will find that the twenty-fifth chapter is devoted to the topic of jubilees. I will give you only one quotation from it. It is there written that in the Year of Jubilee 'shall ye make the trumpet sound throughout all your land.' Being a citizen of a modest and laconic nation, I am happy that the task of blowing the trumpet of our Society has been so eloquently and so generously performed by

my friend the Lord Chanceller, and, therefore, I am absolved from doing so. But there are other words that follow in Leviticus: ' Ye shall hallow the fiftieth year '—and now comes a message for our own day—' and proclaim liberty throughout all the land unto all the inhabitants thereof.' So that when we are celebrating, as we are doing to-day, the Jubilee of a Society which has sought to make its contribution to the legal learning of the world, we may justly, I think, not only blow our own trumpet a little, but also recall that the promotion throughout the world of the rule of law, which is the rule of liberty, is one of our main objects.

" Comparative law is an exceedingly interesting subject. The British Empire and the United States of America which share to so large an extent the same system of law, and the other nations whose loyalty is rather to the ancient Civil law, provide a great laboratory of legislation. In that laboratory experiments of all sorts are carried on in that difficult and most important of all arts, the art of governing men in their relations to each other. The Lord Chancellor has referred to the fact that, in the courts in which he and I sit we are engaged in the practice of comparative law, for every day we are called upon to administer widely different systems. Nothing is more educative to one who has been brought up in one system of law than to see how in other systems the same problems, the ancient problems which have always confronted humanity, have been faced and tackled. People have sometimes said to me, 'How on earth do you manage in the Judicial Committee of the Privy Council to administer Hindu Law one day, Mahommedan Law the next day, then French Law, and then again Roman-Dutch Law, and so on through the whole gamut of jurisprudence?' At first it seems an impossible task; but after a good many years there this great truth has been borne in upon me—and I have realized it more and more from year to year—that, after all, throughout the world, Justice is one; and that the methods, the technique, and the forms which it assumes in different countries are only its trappings. One finds, in every one of these different systems which one has to administer, the same object is in view—to do what is right and just. The forms in which Justice clothes itself in different lands are important no doubt, but they are not of the essence. It is not difficult in all systems to discover what is really the object in view and the essential purpose to be achieved. Justice is simple and single: its forms are many and often complex. But, if your mind is set upon endeavouring to do what is just and right, you will find that forms are comparatively unimportant.

" One great service which our Society can render is to bring about more unification of law. Just as different languages have been, in the world's history since the days of Babel, a cause of difficulty in attaining that sympathy and that friendliness which one would like to exist among the nations, so also the diversity of their laws has proved an obstacle in the way of complete understanding. They have, indeed, been more than that. They have been an obstacle in the way of commerce and trade: for, if you have different methods, for example, of dealing with bills of exchange and bills of lading and other commercial documents, you will find a constant irritation and a constant difficulty in carrying out international transactions. As we learn more of each other's systems, so we can borrow from each other, and, by a slow process of assimilation, bring about an ideal and universal system of law which will obtain throughout the civilized world and eliminate all those causes of friction which varying systems of law create.

" We have, my Lord Chancellor, in recent relations between England and Scotland, to which you have referred, some interesting examples of that sort of thing. You have suggested that my nation is so proud of its own system that it is not prepared to learn from others, but I can assure you that that is not so. The Scot is always acquisitive, and if he sees a good thing he generally succeeds in acquiring it. For example, quite recently we have abolished in Scotland the

rule of law which we had borrowed from Rome whereby gifts between husbands and wives could always be recalled. Whether that was a good or a bad principle I shall not say, but you can imagine that it occasionally caused little domestic difficulties. We have now come into line with English law in this respect. But England is also acquisitive, and, having seen the superior advantages of the law of legitimation in Scotland, has lately adapted and adopted it. As time goes on we shall, no doubt, see more and more assimilation of our systems, each learning from the other, which is all to the good and entirely in consonance with the objects of our Society.

"It is a great pleasure to welcome to our Jubilee so many distinguished representatives of other countries. To you, Mr. Prime Minister, I need not say how close and happy throughout the ages has been the relationship between Scotland and the Netherlands. It was to the Netherlands that the young aspirant to the Scottish Bar in the seventeenth and eighteenth centuries turned for his inspiration. Our budding advocates set out across the sea to attend the great Universities of Utrecht, Leyden, Franeker, and Groningen where they sat at the feet of the Voets, Heineccius, Grotius, and other great masters of the Roman law, and whence they brought back with them the learning which so profoundly influenced the law of Scotland. I would express to you, Mr. Prime Minister, on behalf of our Society, our fervent hope that your noble land may soon be free once more from the bondage of the oppressor.

We have also the pleasure of seeing at our table H.E. the Norwegian Ambassador. I wonder if any of you are aware that, in the Court of Session in Edinburgh, we occasionally administer Norwegian law. A large part of Scotland was at one time an appanage of the Norwegian Throne, and Orkney and Shetland came to be included in Great Britain by a unique international transaction—by the foreclosure of a mortgage. A Scandinavian princess betrothed to King James III of Scotland had as her dowry ten thousand crowns, and in security thereof—because the Scots always like security—the Islands of Orkney and Shetland were pledged by her father for payment of the money. But the princess's dowry was never fully paid, and, in consequence, the Islands of Orkney and Shetland are now part of the United Kingdom. But the land law of these islands, consistently with the traditions of the British Empire, which has always allowed its component parts to retain their own laws and customs, has remained to a considerable extent Odal, or Norwegian. You have there an example within our own islands of the importance of knowing other systems of law.

"To all the representatives of other countries with us to-day we equally extend our welcome and good wishes.

"In conclusion, I should like, if I may use legal language, to assign over the kindly compliments of the Lord Chancellor on to-day's ceremony to Mr. Bedwell, one of the honorary secretaries of the Society. Its success is entirely due to his zeal and initiative. Chairmen are supposed to be sedentary and to leave activity to their secretaries. As Chairman of the Executive Committee, I gladly confess that the moving spirit throughout has been Mr. Bedwell; it is to him and his enterprise that this remarkable, this successful, gathering is due.

"There are many other topics I should have liked to discuss had time permitted, topics which make our Society so interesting and of such living value. But I must confine myself to exhorting all of you here to-day to be missionaries on its behalf and to enlist as many members as you can. Ours is not really a dry subject. There is nothing more fascinating than to see how other people do things, nothing more instructive. This Society in its *Journal* and in other ways has collected a vast amount of valuable material and we are anxious that it should still further develop its usefulness.

"The great founder of the Society has had his eulogy to-day. There have been other great names associated with it also. The Society in spirit is still

alive and is still active. Nothing could be more encouraging to us than to meet together to-day, at this table, in the midst of a great war, and to pledge ourselves afresh to the pursuit of a study whose aim is the promotion of mutual knowledge and peaceful friendship among the nations."

The President

The toast of the President of the Society was then proposed by the Right Honourable Viscount Bennett, who said:

"Your Excellency, my Lords, Ladies, and Gentlemen. I must first of all convey to the Society the greetings of The Canadian Bar Association, which wishes you well and desires to congratulate the Society upon all that it has achieved. The Canadian Bar Association has done much to secure uniformity of laws throughout the Dominion in the nine Provinces of the Confederation. Uniformity has been established in legislation dealing with many subjects that lie solely within the jurisdiction of the Provincial Legislatures.

"I think you will agree with me that this has been a most interesting gathering, not the least interesting point being that we have discovered (and it will be memorable for that reason) one of the important factors in shaping the life of the distinguished Lord Chancellor. I could not but think, as he was speaking of the acute intellect of Sir Courtenay Ilbert, of the extent to which that great man may have been responsible for the development of one of the most acute intellects of our time. The eulogy that the Lord Chancellor pronounced upon that distinguished public servant, I think, meets with the approval of us all, especially remembering his editions of Sir Erskine May's great work. It is a matter of some satisfaction to know that the Society of Comparative Legislation exists. We in some of the far-off Dominions think there is good reason for it—at least, when arguing before the Privy Council! I recall that in the early days of the Canadian Confederation a distinguished lawyer was arguing a case before the Privy Council, and he expressed some concern that the Judicial Committee was not prepared to take as wide a view of the great issues as was done by Chief Justice Marshall in *McCullough* v. *Bank of Maryland*, whereupon the Presiding Lord said 'Mr. X, their Lordships feel quite capable of interpreting a Statute of the Parliament of the United Kingdom of Great Britain and Ireland.'

"We had another difficulty. As you are aware, the Constitution of Canada, the British North America Act, is a Statute of the Imperial Parliament. Sir John McDonald, the Father of Confederation, and one of the greatest, if not the greatest, of Canadian statesmen—he was born in Scotland, which may account for it—when the delegates were considering the terms of the Constitution were desirous of giving the widest possible scope to the words 'trade and commerce.' The Supreme Court of the United States had given a definite meaning to those words in their Constitution. So in Section 91 of the British North America Act exclusive legislative authority was conferred upon the Parliament of Canada to deal with 'The regulation of trade and commerce.' To his great surprise, the Judicial Committee of the Privy Council, doubtless having in mind the formation of this Society and the necessity for uniform legislation, went back to the reign of Good Queen Anne and gave to the words 'The regulation of trade and commerce' a restricted meaning from which Canada has suffered ever since! I suggest this indicates that even in those days the value of uniform legislation was quite apparent to the members of the Privy Council of that time." After referring to other decisions, Lord Bennett continued: "This Society has done excellent work and I believe has to some extent influenced the action taken by the Canadian Bar Association with respect to uniform legislation in the nine Provinces, and similar efforts are now being made in the United States of America where forty-eight legislatures are, every year, producing legislation in varying forms with Congress as the central legislative authority. I think anyone speaking to the members of the legal profession in Canada and the

United States will find they all agree that this Society has done much to create the sentiment that finds expression in the effort being made to provide uniformity of legislation.

"It is but fitting, having regard to the great growth and development of the overseas Dominions, that our President should be a distinguished citizen of one of those Dominions. That Mr. Bruce should be here to-day as President is but fitting. He has had a great career. For many years he practised his profession here and in Australia. I found when visiting that Commonwealth that the legislation that has endured during the years and is still upon the Statute Books was put there by Mr. Bruce when he was Prime Minister. He laid the foundation for sound administration by legislation which will, I believe, endure as long as Australia endures. I consider it a great compliment to us of the Dominions that he should be in the Chair, that he should be our President, and I trust, as I know we all do, that he may live long to grace our councils with that breadth of knowledge and that graceful diction, which unfortunately we hear all too seldom, but by which he has endeared himself to all those with whom he comes in contact. We wish him well. My duty is to propose his health. There is nothing I do more gladly, because I regard it as a matter of pride that I am a citizen of the Empire as he is, and that both of us were born in an overseas Dominion, he in Australia and I in Canada.

"My Lord, Ladies, and Gentlemen, let us honour our President by wishing him good health, long life, and continued usefulness in the high position he now adorns."

The President (The Rt. Hon. S. M. Bruce, C.H., M.C., F.R.S.), in responding, said:

"Your Excellency, my Lords, Ladies, and Gentlemen. I am very grateful to Lord Bennett for what he has said, particularly at the end of his observations when he utilized the opportunity for pointing out what a great career I had behind me, and, in fact, what a remarkable and distinguished person I was. My reason for this gratitude is that if ever there was an occasion when I wanted a little explaining away it was when I found myself presiding at the Jubilee of this very important Society. It has always puzzled me how I ever became your President, and I am still in a state of mental confusion about it.

"It was a great honour when I was invited to become the President of this Society, and I most willingly accepted. I realized all too clearly my limitations for such a high and exalted position. Perhaps Lord Bennett has put a little light in your mind by telling you that I am rather distinguished and quite suitable to be your President. Certainly my own mind, with its innate modesty, never struck upon that explanation.

"The only reason I could think of was that as my country, Australia, has for the last thirty years been a laboratory for all forms of social legislation, perhaps you thought it would be a good thing to get an Australian as President of your Society, in the hope that it might restrain our somewhat remarkable experiments in new and rather startling legislation. Believe me, if you ever had such an idea you were wasting your time. Any influence I may have had in restraining my countrymen has disappeared and to-day is absolutely negligible. I have passed out of the somewhat sordid ranks of the politicians and I have joined the exalted ranks of the Ambassador who knows no politics and no party.

"We are to-day facing a new task in trying to reconcile legislation in different parts of the world. I do not propose to inflict upon you a speech after the spate of eloquence you have already enjoyed in regard to this great Society. My last remark would be one of the greatest possible gratitude to the Honorary Secretary, Mr. Bedwell, for having treated me so kindly. Lord Macmillan was right, the Chairman and President have nothing to do with this function; they are just told what they have to do. When the Honorary Secretary came to see me to

discuss the arrangements I had an awful picture of my having to propose things and talk about matters of which I knew nothing. He completely relieved my mind by telling me that no less a person than the Lord Chancellor was going to do the real job of work and that Lord Macmillan was going to pick up and carry on the good work that the Lord Chancellor had begun, my sole task was to return thanks to the toast of the President proposed by Lord Bennett. The only thing which made me a little apprehensive was Lord Bennett. I have known him for a very long time and I knew his astounding eloquence, as to what he might say about me and leave me to answer I had not the faintest idea. My apprehension has been calmed. Lord Bennett has behaved admirably. He has given me an admirable advertisement. He has perhaps confirmed me in the high office I now hold, and I express to him my great gratitude."

In addition to those above-mentioned, the following members and friends of the Society were present:

His Excellency the Norwegian Ambassador; Professor Dr. Gerbrandy, Prime Minister of the Netherlands; The Rt. Hon. Sir Sidney Abrahams; Miss J. Angel; C. E. A. Bedwell, Esq.; Dr. Vaclav Benes; E. A. Bingen, Esq.; J. Brodie, Esq.; Sir Alfred Brown; Sir Frank Brown; J. A. Calder, Esq., C.M.G.; Sir Cecil Carr; A. Carreras, Esq.; K. Carpmael, Esq., K.C.; D. S. Causer, Esq.; M. Cieszewski, Esq.; The Hon. Mr. Justice Cohen; Lady Cohen; C. J. Colombos, Esq.; Dr. Eustace T. Cummings; *The Daily Telegraph;* Mrs. B. Dewar; Sir Oscar Dowson, C.B.E.; Alfred Drucker, Esq.; H. H. Duncan, Esq.; Dr. L. Fairfield, C.B.E.; A. Farnsworth, Esq.; F. J. B. Gardner, Esq., M.C.; Mrs. Gladwell, J.P.; Sir Henry Golan, C.B.E., K.C.; Professor Goodhart, K.C. (representing the American Law Institute); Professor H. C. Gutteridge, K.C.; D. H. J. Hartley, Esq.; M. F. P. Herchenroder, Esq.; C. J. Highton, Esq.; J. Fayrer Hosken, Esq.; V. R. Idelson, Esq., K.C.; Mrs. Idelson; J. E. James, Esq.; J. Mervyn Jones, Esq.; F. N. Keen, Esq.; Sir Kenneth Kemp; F. W. Lascelles, Esq., C.B., M.C.; Dr. K. A. Korsah, C.B.E.; M. Kulski, Counsellor of the Polish Embassy; Capt. Kuratowski; M. Lachs, Esq.; W. Latey, Esq.; F. H. Lawson, Esq.; *The Law Journal;* Sir Lynden Macassey, K.B.E., K.C.; Lady Macassey; Sir William Malkin, K.C.M.G., K.C.; P. V. Mauger, Esq., J.P.; M. Meyer, Esq.; Jan Meysner, Esq.; Dr. J. M. de Moor, President of the Netherlands Maritime Court; Lieut.-Colonel K. G. Morden, Assistant Judge Advocate-General of Canada; A. C. Morgan, Esq., President of the Law Society; Colin Pearson, Esq.; Sir Herbert Pearson; *Press Association;* H. H. C. Prestige, Esq.; A. G. P. Pullan, Esq.; L. L. Quatermass, Esq.; Sir Arthur S. Quekett, K.C.; Sir Albion Richardson, C.B.E., K.C., Treasurer of Gray's Inn; Michael Rowe, Esq.; Professor M. Sarfatti; Dr. Egon Schwelb; Sir John H. Shaw; *Solicitor's Journal;* J. M. Spaight, Esq.; Sir Arthur Stiebel; His Honour Hugh Sturges, K.C.; H. A. C. Sturgess, Esq.; Serjeant A. M. Sullivan, K.C., Treasurer of the Middle Temple; H. B. Thomas, Esq., O.B.E.; *The Times;* Dr. E. C. S. Wade; A Lingen Watson, Esq.; M. F. Waters, Esq.; G. Webber, Esq.; T. H. Willcox, Esq.; Capt. Woodhouse; B. B. Woollard, Esq.; H. Wragg, Esq.; K. O. Roberts Wray, Esq.; K. H. Wyser, Esq.

SOCIETY OF COMPARATIVE LEGISLATION

Dr. RECEIPTS AND PAYMENTS ACCOUNT FOR THE YEAR ENDING DECEMBER 31ST, 1944. **Cr.**

	£ s. d.	£ s. d.
To Subscriptions:		
General	382 10 4	
Government	70 13 1	
		453 3 5
,, Grants:		
Law Society	21 0 0	
Fiji Government	10 0 0	
Gold Coast Colony	6 0 0	
Mauritius Government	5 5 0	
Trinidad Government	5 0 0	
G. F. Grigs, Esq.	10 6	
		47 15 6
,, Sale of Journals, Back Numbers, Reprints, etc.	25 12 10	
Less Cost of Reprints	3 16 0	
		21 16 10
,, Interest on 3% Defence Bonds		6 0 0
,, Subscriptions in arrear paid during 1944		40 12 11
,, Subscriptions in advance paid during 1944		111 19 11
,, Cash at January 1st, 1944:		
At Bank	371 18 1	
In Hand	4 17 3	
		376 15 4
		£1,058 3 11

	£ s. d.	£ s. d.
By Publication of *Journal*:		
Printing—vol. xxv, pts. iii and iv	135 10 4	
volume xxvi, parts i and ii	175 14 5	
Postal Wrappers	7 3 0	
Paper for Journal	18 5 9	
		336 13 6
,, Salary of Clerk	118 18 0	
Income Tax	6 12 0	
		125 10 0
,, Rent of Office		40 0 0
,, General Expenditure		28 10 9
,, Audit of Accounts		3 3 0
,, Stationery		8 3 1
,, War Risk Insurance of Stock		2 14 2
,, Cash at December 31st, 1944:		
At Bank	506 12 3	
In Hand	6 17 3	
		513 9 5
		£1,058 3 11

We have examined the above Receipts and Payments Account with the Books and Vouchers, and certify that it agrees therewith. We have verified the Bank Balance, and also the investment of £200 3% Defence Bonds.

LONDON: 48, Copthall Avenue, E.C.2.
February 23rd, 1945.

CASH, STONE & CO.,
Chartered Accountants.

[*Contributed by* THE EDITOR]

LAWS, suggests a character in one of Plato's dialogues, are not made by human beings but by accidents and misfortunes—war, epidemics, famine, or a succession of bad seasons. The idea gains some support from our contributors' summaries of the legislation of 1943. Floods in Tasmania, forest fires in Nova Scotia, hail-storms in Alberta, rinderpest in Coorg, and civil disturbances and food shortage elsewhere in India—these played their part in making the laws, while all the time and everywhere the continuing catastrophe of global war leaves its trail across the pages. The statutes passed by South Australia, observes Mr. Bean, might (with one exception) have been enacted in peace-time. Throughout Australia, it is true, the year is fruitful in general legislation, but the stimulus and influence of war are ubiquitous. Sometimes the symptoms are connected with high constitutional issues such as the federal developments in Australia (about which Mr. J. E. Broadbent wrote in our *Journal* in November, 1943) or the emergency ordinances branded as *ultra vires* in British India. Sometimes they appear in minor illustrations of the shortage of man-power and material. Take, for instance, the effect upon the laws governing the use of mechanically propelled vehicles. Several legislatures have lowered the minimum age for a driving licence. Natal and the Orange Free State suspend the requirement that a recent photograph of the driver must accompany his licence. In the Transvaal car fees may be refunded when there is no petrol. Nova Scotia allows substitutes for metal number-plates for vehicles, and Manitoba dispenses with metal badges for chauffeurs. Or for another instance, take the Quebec statute implementing an arrangement with the United States of America whereby the latter will release silver in ingots to replace copper needed for electrical apparatus.

But, though war pervades our summaries, the year 1943 sees the decisive turn of the tide. Confidence in victory directs attention to post-war programmes. Legislators are not likely to forget the serving or demobilized soldier, sailor, or airman. His repatriation and resettlement engross them. Can he be put back into his old job, with his changed horizons? He is to have preferential employment in South Australia unless reasonable and substantial cause exists to prevent it. The elaborate provision made for this purpose by Victoria is an interesting experiment. Land settlement schemes are framed for him in Victoria, New Zealand, and elsewhere. His war pension needs legislation in other countries; pension-appeal tribunals raise problems of administrative adjudication. The soldier old enough to serve is old enough to vote; some countries give him the franchise while he is still under 21. In the United Kingdom, where the peace-time system of an annually revised electoral register has lapsed into chaos, preparations begin for the oft-postponed general election, with proxy voting and postal voting for the service man. The appeal to the electorate, of course, is not everywhere postponed. New Zealand faces a general election in September, 1943, and meanwhile temporarily suspends all by-elections.

Linked with demobilization and re-settlement are wider schemes. The planners are busy. A Post-war Reconstruction Committee is created in Alberta, an Economic Advisory Council in Quebec. Queensland institutes a Post-war Reconstruction and Development Trust Fund for financing projects to be supervised by a Co-ordinator-General of Works, and invites an Advisory Committee to regulate the use of land and water resources. In Britain 1943 is a white-paper year. Not much comes as yet of the report of the Royal Commission on the Location of Industry, the Beveridge Scheme for Social Insurance and Allied Services, the Scott report on Land Utilization in Rural Areas, the Uthwatt report on Compensation and Betterment; but these and other "blue prints" are examined with a view to legislation. Indispensable as it is to consult the

planners, legislatures can seldom so far surrender their task of hammering out laws by discussion and compromise as to enact in its entirety what the prophet brings down from the mountain. Some reasonable unanimity on policy must be elicited from the representatives of a democracy; some modest inquiry made into ways and means. The tedious but ineluctable task of statutory formulation is formidable and takes time. In Britain, as no doubt elsewhere, administrators begin to wonder whether the immemorial routine of Parliamentary law-making will not be found too dilatory. Preliminary debate on a white paper, a blue book, or an authoritative committee's published explorations is increasingly adopted as a method of clearing the air, testing probable support, and settling the principles which a Bill is to embody. Progress thereafter can be the swifter. It is a technique which Lord Balfour amongst others used to advocate; it has been traditionally employed for reform of the franchise and other important changes. While emergencies continue to confront countries with sudden and unforeseen contingencies, there is, of course, the invaluable remedy of delegating legislative power to the executive departments. In the United Kingdom the catalogue of Defence Regulations and of orders made thereunder received copious additions in 1943. Here, too, however, the turn of the tide was visible. The total number of Statutory Rules and Orders registered under the Rules Publication Act dropped by over 1,000 below that of the peak year of 1942. Dissatisfaction continued to be heard in the House of Commons over the difficulty of Parliamentary supervision of these departmental regulations and orders. Presumably the same misgivings led Nova Scotia to insist that all regulations be tabled in the House of Assembly within 20 days of their being made or within 20 days from the sitting of the House next after the making. British statutes use the vaguer direction that such instruments shall be laid before Parliament "as soon as may be"—a phrase of indefinite latitude.

To those catastrophes which, in the Platonic sense, are the authors of laws we must nowadays add the misadventures of unacceptable judicial decision. The judges may fairly protest that it is hardly their fault if enactments are so framed as to be incapable of convenient interpretation. If, however, judicial construction somehow gives statutes or legal principles the wrong twist, the legislature must straighten them out again. "The law," in the view of Lord Keeper North, "must be kept as a garden with frequent digging, weeding, and turning." According to his brother Roger, he used to jot down in a notebook any "abuse" that came to his notice, and digest the matter so that it could be the basis of a Bill. In England the Lord Chancellor's Law Revision Committee happily works in the same direction. When at length the House of Lords in the Fibrosa case straightened the kink in the law of frustration of contract, the Committee's report formed the basis for a statute to complete the reform. It was some 40 years since contracts for viewing the coronation procession of King Edward VII, frustrated by the King's illness, had led to decisions which left dissatisfaction. Forty years is a long time. Other uncomfortable judgments which instigated restorative legislation in 1943 are mentioned by our contributors. Control of exorbitant landlords in Scotland under the Rent Restrictions Acts was weakened by a narrow construction of "extortionate rent." The Supreme Court of Australia restrained the regulation-making power conferred by the National Security Act. While in Britain Defence Regulation 18B survived a strong challenge in the Liversidge case, in India the Federal Court declared invalid a Defence of India Rule as to detention orders and also discountenanced parts of an ordinance which gave executive officers discretion to allot cases to special criminal courts. Lastly, in Eire card-playing for money on licensed premises by *bona-fide* guests of the licensee had been held illegal. Legislation can cure these troubles. It can also cure others where the executive have gone astray. Already in 1943 Acts of Indemnity are being passed to protect persons who have operated emergency powers which are probably illegal. More will doubtless be passed when hostilities and abnormal conditions are ended.

Sir Courtenay Ilbert, whose great part in the foundation of our Society we gratefully remember in this year of jubilee, attached great importance, both in his writings and in his work, to the improvement of statutory form. If progress in the excision of obsolete laws and in the tidy re-writing of a series of overlapping and often amended enactments sometimes seems to have lost its impetus in Britain, the year 1943 has an unobtrusive but exemplary contribution from Sir Frederick Liddell who served with Ilbert in the office of the Parliamentary Counsel. His New Parishes Measure deftly reproduces some 220 pages of Church Building and New Parishes Acts in less than one tenth of their previous bulk; thus one modern measure replaces nearly 20 statutes mostly of the indifferent vintages of a century ago. On the whole the achievements in this direction at Westminster tend to be confined to the re-writing of quite recent laws. Older tangles are left in their scandalous state of confusion, difficulty, and dispersal—the statutes relating, for example, to highways, customs and excise, marriage, registration of births and deaths, burial, justices of the peace, summary jurisdiction, prisons and imprisonment, police, diseases of animals, or weights and measures. Where a serious attempt has been made to re-write, as with the appalling sequence of income-tax enactments, the effort is wasted. Will our legislators allow it to be said that they are interested only in topics which catch votes? Will our administrators permit the suspicion that they tolerate unintelligibility because of the power it gives them over the uninitiated? A Select Committee competently and acceptably recommends simplification of the law of disqualification for membership of the House of Commons. Its report shows the way to curtail the tedious list of some 80 enactments tagged on at the tail of the Act of Anne which deals with offices of profit. The sleeping dogs are let lie. Another of the founders of our Society, Sir Mackenzie Chalmers, colleague and friend of Ilbert and himself a famous draftsman, used to preach that all statute law should be consolidated every 12 years. The ideal seems sadly remote; perhaps we are too easily frightened by the prior processes of amendment usually necessary. Outside Britain the "ungodly jumble" may be less discreditable. War-pension laws are re-written in New Zealand in 1943, marriage laws in Tasmania, the laws of evidence in criminal proceedings in Nigeria, the liquor laws in Cyprus. Maybe the draftsman is more sure of a free hand and the requisite leisure in the Falkland Islands where the law of customs and of import and export duties is consolidated and where a general revision of the statutes has been undertaken. In the Gilbert and Ellice Islands the High Commissioner promotes a new edition of Defence Regulations. If this particular task has not been essayed in Britain, one explanation may be the wish to preserve the identities of regulations like 18B or 55 under their familiar numbers. The alternative to renumbering in the British code results in the interpolation of substantial sequences of new regulations with alphabetized sub-numbers; thus between Regulations 60 and 61 come 24 new ones with labels ranging from 60A to 60Q.

For any deterioration in the form and conciseness of the statute-book it would be most unjust to scold the official draftsman. In the often quoted dictum of Lord Thring, he must frame laws to pass as razors are made to sell. He would sooner give us good laws than bad. He does not enjoy a life of leisure. He does not choose his own subjects. Scientific development and discovery add to their infinite range. He must take thought for dehydrated vegetables in Tasmania, pasteurized milk in Melbourne, tuberculosis notification in South Australia, artificial insemination of cattle in Britain, hydro-electric projects in the North of Scotland and elsewhere, and micro-photography of documents in relation to the law of evidence in many countries. In controlling the advertisement of food and drugs in South Australia he must deal with advertising by broadcasting. With the aid of his government's legal advisers he must prepare himself for such big problems as a regency in the United Kingdom, emergency arrangements on the election of a new Dáil in Eire, the repeal of the Japanese treaty as well

as liability for the negligent actions of servants of the Crown in Canada, United States bases in Bermuda, alteration of the rights of succession to property in Queensland, interference with testators' wills (where they seem to make inadequate provision for maintenance of widow and family) in South Australia and New Zealand, coroners' inquests on missing persons in Queensland, or those difficulties, expounded by Dr. Ivor Jennings, inherent in the creation of a healthy local government where East meets West in Ceylon. He may be called upon to regulate standard time in British India or daylight saving on the Peace River, the poisoning of crows and magpies in Alberta, or the burial of trespassing pigs and goats in the Kingdom of Tonga. He may have to make employers the collectors of income tax from employees as under the pay-as-you-earn method adopted in Britain, or collectors of unpaid trade union subscriptions as in New Zealand. While the draftsman will sometimes have his own previous oversights to admit and repair, he will often be required to counter some anti-social ingenuity in the probing of gaps in laws which honest folk are content to obey in the spirit as well as in the letter—war contractors' too acquisitive nest-feathering, in Britain a whisky racket which evades purchase tax, in Tanganyika the abuse of the traders' licensing system, in Canada the ramifications of the chain-letter in connection with war-savings stamps. When our contributors feel able, within the proper limits of the spare time and official secrecy, to reveal to us the why and wherefore of an enactment, there is often much curious information to be disclosed. If they are not only the expositors, but also the actual framers of a law, they hold the key to mysteries which intrigue the casual student. Why, for instance, has the Governor of Bermuda had to wait till 1943 for his motor car? Are the composite "Statutes Amendments Acts" of New Zealand a legislative vehicle worth running elsewhere? Is the betting tax in Madras and the United Provinces confined to the totalizator system or how otherwise does it manage to succeed where the British betting tax failed? Is there a serious demand for the regulation of changes of name—a matter wherein Nova Scotia has now followed other provinces of Canada? How far will those municipal by-laws succeed which (another Nova Scotia provision) may try to keep children under sixteen off the streets after the hour of curfew? And are those statutory altruists who work for uniformity of legislation in Canada satisfied with the progress of their patient effort whereby one good legislative currency may drive out others not so good?

Some of our readers perhaps take a specialized interest in statutory turns of speech. Crude or archaic labels need euphemizing or modernizing. In South Australia "infamous crime" disappears in changing the law of disqualification for the franchise, though "infamous conduct" is still retained in Britain in the Medical Act. As in 1930 English law substituted "mental patient" for "lunatic," so in 1943 Madras substitutes "notified tribes" for the older "criminal tribes" and the Cape Province substitutes "Good Hope" boarding establishments for those formerly called "indigent." Statutory words, of course, have the meanings which the draftsman gives them; they may vary from time to time, from place to place, and from law to law. In the criminal code of Tonga "night" used to mean the period from 9 p.m. till dawn; now it means that from 6 p.m. to 6 a.m. Students of the British statutes will remember that, in the Night Poaching Act, 1928, "night" meant the time from an hour after sunset to an hour before dawn. In the 1943 laws against burglary and housebreaking in Queensland "building" must now include garages and hangars. In a Jamaica ordinance about diseases of animals "bird" is not to include poultry and the ordinance is not to apply to bees. This provision recalls the fact that the Parliament at Westminster applied its Diseases of Animals Acts to poultry (with departmental adjustment) in 1935, but shrank from extending them to diseases of fish in 1937 or diseases of bees in 1941. "Cattle" in the British law about artificial insemination in 1943 is to include domestic fowls, turkeys, geese, and ducks, though when the Road Traffic Act, 1930, made the motorist stop and report his

casualty victims, " animal " meant " horse, cattle, ass, mule, sheep, pig, goat, or dog." A modern statute, we know, contains in an interpretation clause its own little dictionary. For the general statutory definitions (the draftsman's algebraic abbreviations universally applicable) we must go to the descendants or variants of the 1850 statute " for shortening the language of Acts of Parliament " which we owe to the Benthamite zeal of Lord Brougham. The Interpretation Acts adopted by some legislatures are likely to be better than those of others; Mr. J. P. Runciman appropriately is able to report Saskatchewan's consolidation and amendment of her Interpretation Act along lines approved by the Canadian Commissioners on Uniformity of Legislation. Acts of this kind usually provide that, unless the contrary intention appears " words importing the masculine gender shall include females." Thanks to this the English and Scottish Nurses Acts of 1943 can refer to the usually feminine nurse as " he " and " him."

We must not end this digression into technicalities without noticing Sir Arthur Quekett's account of the new permissive method of citing Northern Ireland statutes. These, like the statutes of the United Kingdom, have latterly been published in calendar-year volumes, though the relation of the chapter numbers to the Parliamentary session and the regnal year or years of the session has been retained. The old rigmarole of regnal-year-and-session citation has ceased to matter so much since the general recourse to the sensible system of short-title citation, embodying some description of the subject of the law and adding its calendar year, e.g., " the Nurses (Scotland) Act, 1943." From calendar-year publication, however, it is a short step forward to calendar-year numbering. Northern Ireland now moves ahead of the United Kingdom by giving its statutes chapter numbers as of the calendar year, thus adopting a practice which has long obtained in some of the Dominions.

A commentator might go on for ever with this partial picking out of points of idiosyncratic interest in the summaries which follow. In fairness to the authors, the reader must be left to make his own selection and find his favourite themes without further distraction of allusions in advance which, however prolonged, will not do justice to the richness and diversity of the material. Ilbert, in his Romanes lecture on Montesquieu, gave a luminous analysis of the philosophic Frenchman's idea of the Spirit of the Laws. Nations are governed not by chance or by blind fate, but by the reason which is expressed in their legislation. Each law is conditioned by such facts as the physical peculiarities of the country, its climate, soil, situation and size, the occupations and mode of life of the inhabitants, their religion, number, wealth, trade, manners and customs. No law is good or bad in the abstract. Every law must be considered in its environment and judged by its adaptation thereto. After some two centuries of currency, Montesquieu's theory can here be tested afresh. Is there any common thread running through the following pages? In an era of heightened social conscience the recurrence of the word " welfare " will occasion no surprise. A National Welfare Fund in Australia secures sickness and unemployment benefits and maternity allowances. New South Wales reconstitutes her Aborigines Welfare Board with extended powers. Canada has a National Fitness Fund to stimulate physical education and welfare. Alberta enables a Board of Industrial Relations to look into the welfare and working conditions in particular industries. Britain does much the same for the welfare of workers in the catering trades. In Manitoba there is another Child Welfare Act with fresh machinery for child adoption. In Nova Scotia, too, the Director of Child Welfare is given fresh power to protect the adopted child. These instances are far from exhausting the laws which seek in 1943 the welfare of the young and the welfare of the worker. Be that as it may, the note which some listeners are bound to find most persistent will be the intrusion of the war and the consequential regimentation and increase in the authority of the executive. The more monotonous its sound, the more anxiously they will watch a future year's legislation for signs that something which they seem to have lost in war-time is being restored when peace returns.

BRITISH EMPIRE

I. BRITISH ISLES

1. UNITED KINGDOM

[*Contributed by* Sir Cecil T. Carr, LL.D.]

During the calendar year 1943[1] the Royal Assent was given to 49 public general statutes of the United Kingdom Parliament. Some of these are based upon views elicited by debates inside the House on "White Papers" previously circulated, others upon the recommendations of exploratory committees making their investigations outside.

In 1943 all Bills are still being taken on the floor of the House without going to standing committees upstairs. There is no time available for Private Members' Bills. A National Government still confines its legislation to Bills devoted to the national object of winning the war, though critics murmured their doubts whether the Catering Wages Act came within that category.

Improvement of the Statute-Book.—Two groups of war-time statutes are already found to need consolidation. One consisted of the War Damage Acts; a preliminary amending Bill was run ahead of the consolidating Act, so that the final process was pure consolidation with no admixture of further amendment (cc. 12 and 21). The other group consisted of the Courts (Emergency Powers) Acts; in reproducing these in the form of a single document (c. 19) the only problem was whether to repeat a provision which had authorized the amendment of the two earliest Acts in the series by Defence Regulations. It was decided to omit the provision; the power was deemed to have lapsed, and anyhow, a Defence Regulation which purported to alter the later Acts in the group would presumably have gone too far.

Two other Acts of 1943 tidy up tangles of much older date. Part II of the Parliament (Elections and Meeting) Act condenses and simplifies some chaotic legislation about Parliamentary writs which dates back to 1695. The New Parishes Measure, passed by the Church Assembly under the enabling Act of 1919, adroitly substitutes less than 20 pages for 220 pages of the Revised Statutes. Framed by our most experienced draftsman, whose hand had lost nothing of its cunning, it replaces two groups of statutes dealing with the creation of new ecclesiastical districts—the Church Building Acts, 1818 to 1884, and the New Parishes Acts, 1843 to 1884. The former group proceeded on the principle of first building a church and then assigning a district to it, the latter on that of first creating a district which would ripen into a parish and then equipping it with a church. Reporting on the new Measure, the Ecclesiastical Committee observed that it was "welcomed by the Statute Law Committee as purging the statute book of one of the most tangled congeries of ill-digested enactments which disfigure it."

The device of exhibiting in an expository schedule the text of a previous enactment as now amended (see *Journal* (1940), Vol. XXII, p. 14) makes a welcome reappearance (c. 49, s. 1 (3), and schedule).

Constitutional Law.—A new Regency Act (c. 42), reciting a Royal message previously conveyed to Parliament, makes two amendments in the Regency Act of 1937. The latter was so framed as to make the wife or husband of the Sovereign one of the body of Counsellors of State to whom Royal functions are delegated in the event of the Sovereign's illness or absence from the United Kingdom. When the King and Queen went abroad together in 1939, it was seen to be inappropriate that the Queen, herself absent, should be required to act as Counsellor. Secondly, the heir apparent or heir presumptive to the throne

[1] This summary covers chapters 4 to 49 of the session 6 & 7 Geo. VI, and chapters 1 to 3 and that of 7 & 8 Geo. VI. The chapter references are to the former session unless otherwise stated.

will in future be qualified for inclusion among the Counsellors, if not under the age of 18. Thus H.R.H. Princess Elizabeth could gain experience (without waiting till she attained full age) in duties which would be hers at her accession.

Once again a Prolongation of Parliament Act (c. 46) continues for another year the life of a Parliament elected in 1935. But at last the difficulties of holding a general election are faced—the multitudinous migrations of the population in war-time, evacuations due to enemy action, voluntary pilgrimages to industrial centres in pursuit of war work, compulsory movements directed by the Ministry of Labour, and postings of men and women in the forces. The Reform Act of 1832 made appearance on a register of electors a condition precedent to the right to vote. The Representation of the People Act, 1918, based the franchise on a residential qualification and arranged for the lists to be checked by an annual official house-to-house canvass. This annual review of the register has been suspended since 1939, and successive statutes have yearly renewed the old register as it stood. A departmental committee on electoral machinery, with the Registrar General as Chairman, made recommendations (Cmd. 6408) to which a Parliament (Elections and Meetings) Act, introduced by the Home Secretary with a gay exposition of historical precedents, now gives effect (c. 48). The war-time National Registration Acts, invaluable for food rationing and other emergency purposes, are utilized to furnish a new register in three parts. The first is the civilian register with a franchise based on two months' residence; the second, the business register, puts on the potential voter the obligation to apply for the insertion of his name; the third, the service register, will be compiled with the help of the service departments and will include members of the Merchant Navy and war workers abroad. Men serving overseas may vote by proxy; if serving at home, they can choose between a personal and a postal vote. There must be a qualifying date for registration; it is fixed as the last day of the month before that in which the election is "initiated." At that date the records will be frozen; the two months' residence is reckoned backwards therefrom. The register is to be published and to come into operation on the 36th day after the "initiation"; a few more days may be allowed for remote constituencies or for interruption of communications.

These processes will take possibly 7½ weeks. As it would be undesirable for the country to be so long without a Parliament in war-time, the gap is reduced to about 20 days by the following device. Normally dissolution, when the Crown issues a proclamation for the purpose, takes effect forthwith. Section 3 of the new Act authorizes the proclamation to fix a future date for the actual dissolving of Parliament, but not later than the date when the register comes into force.

A final section deals with the summoning of Parliament when prorogued; the date of reassembly may henceforth be "any day after the date of the proclamation"; the old law said "any day not being less than six days from the date of such proclamation."

The duration of Part I of the new Act, creating the special register for a "war election" (which does not include a university election) is linked with that of the National Registration Act, 1939. Part I has a separate short title—a gadget capable of presently conveniencing the draftsman and mystifying the uninitiated.

The House of Commons Disqualification (Temporary Provisions) Act of 1941 is continued for yet another year (c. 10). This makeshift device relieves the M.P. whose office of profit under the Crown would otherwise expose him to the Act of Anne, provided that the First Lord of the Treasury certifies that the appointment is required in the public interest for war purposes.

British Nationality.—The common-law qualification for British nationality was birth within the King's allegiance. From 1730 statute law recognized as British subjects the children of British parents born outside His Majesty's

Dominions. Before 1914 these provisions extended to the second generation abroad; an Act of that year limited to the first generation born abroad the transmission of British nationality. In 1922 it was enacted that parents might transmit that nationality to their children if (*i*) birth was registered at a consulate within one year (or at most two years), and (*ii*) the person concerned formally declared his desire to retain British nationality within a year of attaining 21. These time-limits being found too rigid, the British Nationality and Status of Aliens Act, 1943 (c. 14), while retaining them, gives the Home Secretary a discretionary power to permit consular registration or the declaration of nationality at any time. British protectorates have not hitherto been, for domestic purposes, British territory in the fullest sense; but now birth in any foreign country where His Majesty exercises jurisdiction will make a British subject's child a natural-born British subject just as much as birth in a British colony. Doubts about the nationality of children posthumously born are now removed; they arose because previous Acts had referred to persons "whose father was at the time of the birth a British subject." Another new provision recalls the offer of British nationality which Mr. Churchill made, at the time of the collapse of France, to all members of the French Navy who would continue the fight against the Germans. Anyone appearing to the Secretary of State to be (or to have been at any time during the war period) a French national may, on application, be granted a certificate of naturalization if the Secretary of State is satisfied that the applicant " (*a*) is, or has at any time during that period been, a member of His Majesty's forces; and (*b*) is a proper person to be naturalized as a British subject." Another new clause recognizes the validity of special certificates of Imperial naturalization granted in the Dominions in consideration of war service.

Other Matters Affecting the Dominions.—The British North America Act, 1867, containing the Canadian constitution, was expressly saved by the Statute of Westminster in 1931 and is amended by legislation enacted at Westminster on the request of the Parliament of Canada. Section 8 of the 1867 Act required a census to be taken in Canada in 1871 and every ten years thereafter. Under s. 51, on completion of the decennial census, the representation of the Canadian provinces in the Canadian House of Commons must be readjusted. A census was taken in 1941, but it was desired to postpone any consequential redistribution of seats. The British North America Act, 1943 (c. 30), reciting the Canadian request, postpones redistribution " until the first session of the Parliament of Canada commencing after the cessation of hostilities between Canada and the German Reich, the Kingdom of Italy and the Empire of Japan."

In s. 9 of the Army and Air Force (Annual) Act there is another echo of the Statute of Westminster. There were still two Dominions, Australia and New Zealand, which had not yet adopted those optional clauses of the Statute which *inter alia* provide for the extra-territorial operation of the military and air-force law of the self-governing Dominions. Australia having now adopted them, certain parts of the Army Act and Air Force Act are re-worded so as to show that they apply to New Zealand only.

His Majesty's Forces.—Other amendments accompanying the annual continuance (c. 15) of the Army Act and Air Force Act may be briefly explained. It is no longer true that only members of the Royal Air Force may be in control of aircraft. An aeroplane may be towing a glider with an army pilot in charge, and many aircraft are ferried across the Atlantic by pilots of the British Overseas Airways Corporation or others who are not subject to the Air Force Act. Command in these cases is now provided for. The penalty for crashing or endangering aircraft has hitherto differed in war-time from the penalty in peace-time; the two are now assimilated; there was no such difference under the Naval Discipline Act for endangering ships. Finally, women serving in the forces are now definitely within the Army Act and Air Force Act, subject to modifications and adaptations.

National Service.—The Emergency Powers (Defence) Act could be extended to the Isle of Man by Order in Council under s. 4 of the principal Act of 1939. Nevertheless an Emergency Powers (Isle of Man Defence) Act is now needed to declare that the power of making Defence Regulations shall include power to require persons in the Isle of Man to undertake national service in the United Kingdom " in civil defence, in industry or otherwise, whether under the Crown or not " (c. 36). Thus a refugee from England will not escape his proper obligations. The contemplated Defence Regulations will not apply to persons ordinarily resident in the Isle of Man on August 24, 1939, " unless and until specially approved by a resolution of Tynwald "; nor must they require anyone to undertake service in the armed forces or in a civil defence force within the meaning of the National Service Act, 1941.

The Foreign Service.—A White Paper on the reform of the diplomatic and consular services (Cmd. 6420) having been debated in both Houses, the Foreign Service Act (c. 35) gives effect to some of its proposals. Those which recommended the unification of the diplomatic and consular branches had been carried out by an exercise of the prerogative (as was recited in the preamble of the Act); those relating to the regrading of posts, to recruitment and to training, could also be effected without coming to Parliament. But the new Act has to modify past enactments to fit the new unified service, and, in case the draftsman overlooks anything, it gives a general power to make further modifications by Orders in Council, the draft of which will require the affirmative approval of both Houses. The Act gives the Foreign Secretary power to terminate, before the normal retiring age of sixty, the employment of an official not lower than a second secretary, if this course be desirable in the public interest. If a man be deemed unfit for the highest posts, it is unsatisfactory to send him to some appointment supposedly unimportant; to put him permanently on the shelf might seem hard; meanwhile he clogs promotion. The remedy is to retire him with a higher rate of pension for which the Act provides. Further, if a member of the Foreign Service be recalled from office abroad during the war period and then serves in a less highly paid post, he is not to suffer in his superannuation and pension rights. There is a special provision for the retiring age of former members of the China consular service.

The Machinery of Government.—When town planning first appeared in the British statute-book in 1909 as an adjunct of housing, it was the concern of the Local Government Board which in 1919 was replaced by the Ministry of Health. The functions of that Ministry under the Town and Country Planning Act, 1932, were mostly handed over in 1942 to the Ministry of Works and Planning, an ephemeral variant of His Majesty's Commissioner of Works and Buildings. In 1943 a Minister of Town and Country Planning Act (c. 5) finds them a new home, and the Minister of Works and Planning becomes the Minister of Works. The new Minister of Town and Country Planning is charged with the exacting duty " of securing consistency and continuity in the framing and execution of a national policy with respect to the use and development of land in England and Wales." There is the familiar power to transfer by Order in Council any functions relating to the use and development of land in England and Wales exercisable by any Minister of the Crown under any enactment. It is curious that these Orders in Council, which may also make consequential adaptations or modifications of any enactment, order, regulation, scheme or agreement, though they must be laid before Parliament as soon as made, are exposed to no proceedings, negative or affirmative, in either House. On the other hand, when the Act authorizes the establishment of " commissions " by Order in Council, it stipulates that the Order be first laid in draft and that no further steps be taken thereon until both Houses have approved the draft. These commissions are intended to assist the Minister in the exercise of his functions; they might be useful, it was suggested, for surveying a district or for

establishing national parks. By a subsequent statute, noticed later, the corresponding functions of Ministers as regards the development and use of land in Scotland are made transferable to the Secretary of State for Scotland (c. 43, s. 13). The latter also becomes an *ex officio* Crown Lands Commissioner (c. 7). The existing Commissioners of Crown Lands were the Minister of Agriculture and Fisheries (*ex officio*) and a whole-time official appointed under the Crown Lands Act of 1851. When a separate Board of Agriculture for Scotland was created in 1911, the amount of Crown Lands in Scotland was perhaps insufficient to justify a separate Scottish commissioner; now, it was said, the acquisition of the Richmond and Gordon estates made this step desirable.

Planning and Development.—To return to town and country planning, the 1932 Act had made local planning a permissive function of local authorities. These bodies could pass resolutions which in effect controlled future development in their areas. Planning schemes would then be prepared and confirmed. What happened between the passing of a resolution and the operation of a scheme was called "interim development." The controlling resolution had the following effect. If an owner wanted to develop within the controlled area, he could apply for permission. Once he got permission and put up his building, then, if the building proved incompatible with the planning scheme and had to be pulled down, he would be compensated. On the other hand if he chose to run the risk, he could build, and his buildings become interim development. More than three-quarters of England and Wales were governed by local authorities' resolutions, but actually operative schemes covered a mere five per cent. of the land. In 1943 a Town and Country Planning (Interim Development) Act (c. 29) introduces the central planning authority which the Uthwatt Committee recommended. It applies control to the whole of England and Wales by "deeming" that all local authorities have passed the necessary resolution. A man who wants to develop his land will now make an "interim development application" to the local authority who may serve on him a notice of postponement if he cannot show that his development will be carried out immediately. The Minister has an over-riding power to stop the application for "exceptional reasons" or to cancel the postponement notice. Under the 1932 Act, if a man applied in the interim period to develop land, his application was to be deemed granted unless he was told within two months that it was refused. Now the presumption is reversed; the application is deemed refused unless he is told within two months that it is granted. The Act allows the local authority to permit temporary development and ultimately to remove the buildings without compensation; this will aid accommodation in war-damaged cities in advance of permanent reconstruction. It is made clear that anything erected under temporary permission will not be deemed an existing building so as to acquire rights of replacement or compensation. A man who wants to rebuild on a site which formerly carried a building must apply for permission to do so. If his building must come down because it clashes with a scheme, he is compensated for his "abortive expenditure." Local authorities may make "interim preservation orders" (with the approval of the Minister) for "trees, groups of trees, or woodland areas." Agreements made in future for restricting the planning, development or use of land will have no effect unless the Minister approves. A Town and Country Planning (Interim Development) (Scotland) Act contains similar provisions (c. 43).

Building is also controlled under the somewhat clumsily named Restriction of Ribbon Development (Temporary Development) Act, which recognizes that war-time needs had infringed the law (c. 34). An Act of 1935 required the consent of the highway authority before anything could be erected, or any access created, within 220 feet of the centre of important roads. It was stated that war necessities had sometimes caused munition factories to encroach upon the forbidden space, and that highway authorities had then given (perhaps

illegally) a temporary consent with a stipulation that the building be removed after the war. The new Act enables the authority to refuse consent and yet to notify the builders that, if they choose to go on with their work, no proceedings will be taken against them while hostilities last. It may give a similarly reassuring notice where the builders have already gone ahead without consent. Power is reserved for the Minister to enforce the removal at the end of the war. The Act nowhere limits its operations to munition factories; it refers merely to buildings "in the public interest"—a classification which the local bodies are trusted to apply. A final section clears up a doubt in the Act of 1935. On summary proceedings for enforcing its restrictions without criminal prosecution, the justices are merely to declare that contravention has occurred. They are not to enter into the merits of the question whether the building should or should not be pulled down. To allow such a discretion would have weakened the Act.

Legislation about hydro-electric schemes has hitherto taken the form of a Private Bill. In 1941 a Private Bill for the Glen Affric project was withdrawn after controversial debate. A committee was then set up, with Lord Cooper as chairman, to report upon hydro-electric development in Scotland. Its report (Cmd. 6,406) made recommendations which in 1943 receive effect (c. 32). A non-profit-earning public authority, the North of Scotland Hydro-Electric Board, is to be "responsible for initiating and undertaking the development of all further means of generation of electricity by water-power" within an area comprising fourteen counties and parts of four others. It will provide electricity (*a*) for "ordinary consumers" in such parts of that district, "including isolated areas," as are outside the area of existing authorized undertakers, (*b*) for authorized undertakers operating within that district, (*c*) for large-scale users of power in that district, and (*d*) for the Central Electricity Board's grid. It will give priority to the interests named in (*a*) and (*b*) of this category. It will begin by preparing a general "development scheme," surveying water-power resources considered suitable for use for generating electricity; this the Electricity Commissioners will examine in its technical aspects before it goes to the Secretary of State for confirmation. The Board will afterwards prepare "constructional schemes" (the Cooper report thought there might be as many as 70) for similar examination and confirmation; public notice will be given of these and, if objections are lodged, there will be an inquiry. The Secretary of State must lay the scheme and his confirming order before Parliament; an adverse resolution of either House within 40 days will be fatal. The Board may acquire land, borrow money with Treasury approval, raise money by issuing stock (the Treasury may guarantee its loans up to thirty millions), acquire undertakings by agreement, and spend money in research. No substantial new private generating station worked by water-power may be established in the North of Scotland District without the consent of the Electricity Commissioners. The Board is to "have regard to the desirability of preserving the beauty of the scenery and any object of architectural or historic interest and of avoiding as far as possible injury to fisheries." It will be advised in these respects by an Amenity Committee and a Fisheries Committee appointed by the Scottish Office and will furnish them with maps, plans and any other information reasonably required. It must not allow its land or buildings to exhibit advertisements.

Housing.—The Housing (Agricultural Population) (Scotland) Act extends for five years the time within which local authorities may give grants to people who are prepared to erect houses for agricultural workers, small holders and similar folk in the Highlands under Part II of an Act of 1938 which applies when schemes are operated by local authorities with the approval of the Secretary of State (c. 22).

The Rent of Furnished Houses Control (Scotland) Act strikes at abuses of exorbitant rents for houses let furnished or with service (c. 44). Sections 9 and 10 of the Rent Restriction Act of 1920 were invoked in vain in Scotland. The

Crown took proceedings in *Binnie* v. *Morris* (1943 J.C. 119) and the Court of Justiciary held that, to establish an "extortionate rent," it was necessary to prove not only a grossly excessive rent but also the inducement of the transaction by unfair means. The new Act, reminiscent of the "fair rent" legislation of Ireland, proposes that each case be considered on its merits by a tribunal of three persons (not necessarily lawyers) selected by the Secretary of State for Scotland. When a contract for a furnished letting is referred to the tribunal, the parties will be heard or, if they prefer, will submit representations in writing; the tribunal will approve the rent or reduce it to such sum as "in all the circumstances" it thinks reasonable. It will be a punishable offence to exact more.

Social Services and Benefits.—With the Beveridge report engrossing attention, two Workmen's Compensation Acts of 1943 mark time. The first (c. 6) deals with pneumoconiosis (fibrosis of the lungs due to silica dust, asbestos dust or other dust), extending the statutory policy of treating a gradually acquired industrial disease as if it were a suddenly suffered injury. There is the usual problem of fixing the employer who must pay the compensation. There is a benefit scheme to cover death or disablement due to pneumoconiosis where the workmen were formerly employed in or about a coal mine. Other miscellaneous provisions include a new power to regulate the drilling of siliceous rock, a power for the tribunal to disregard the earnings of workmen's widows in respect of war work, and a concession that compensation may be reckoned on the basis of the higher wages which the workman would have earned if any new increased rates of pay had been in force at the date of the accident. Later in the year a Workmen's Compensation (Temporary Increases) Act raises the flat rate of benefit (c. 49). The pre-war weekly payment in disablement cases had been 50 per cent. of the average weekly earning up to a maximum of 30s. An Act of 1940 gave a flat-rate addition of 5s. with extra allowances for children to meet the higher cost of living. Now the pre-war ceiling of 30s. is hoisted higher still, with an additional improvement in the allowance for the family, and with an increase of the maximum compensation payable in a lump sum.

During 1942 a motion by a private member (Mr. Daggar) inviting inquiry into the difficulties of old age pensioners and widows in war-time conditions was accepted by the Chancellor of the Exchequer. Prospective legislation for "all-in" social insurance was not yet ready; the Pensions and Determination of Needs Act, 1943 (c. 27) has to amend five separate codes of assistance to persons in want. Old controversies over the "means test" had not entirely settled the question how far the capital assets of a needy person ought to be disregarded in assessing the allowance which he should receive. Nobody insisted that a man who was in want should first part with all his savings. As the law stood, the Assistance Board and the local authorities, when assessing needs, had to take into account any capital (other than war savings) in excess of £300; capital of a less value was to be treated as the equivalent of an income of a shilling a week for every £25. The new Act raises the £300 limit to £400, and reduces the shilling to sixpence. As for superannuation payments, the law had disregarded the first 7s. 6d.; this sum now goes up to 10s. 6d. The "household means test," already abolished in relation to supplementary pensions and unemployment assistance in 1941, is now abolished as regards poor-law outdoor relief and financial help to blind persons.

Pensions Appeal Tribunals.—The 1932 Committee on Ministers' Powers deprecated appeals from the judicial decision of a Minister on a question of fact, but, in the exceptional cases where such appeal might seem justified, recommended as a model the appeal tribunals constituted under the War Pensions (Administrative Provisions) Act of 1919. Hitherto, during the war which began in 1939, the decision of the Minister of Pensions has been final, both on the

question of entitlement to pension (i.e., whether the event which caused death or disablement was within the conditions which qualify for compensation) and on the question of the extent of the disablement. The Pensions Appeal Tribunals Act, 1943 (c. 39) substantially follows the 1919 pattern. The Lord Chancellor constitutes the tribunals and can appoint and remove the members. There will be three members to hear an appeal, a lawyer of seven years' standing, a doctor of like standing, and a layman who is of the same sex as the claimant and has served in the same branch of the war effort. A differently constituted tribunal will hear appeals against an interim assessment of the degree of disability, appeals against a final decision that there is no disablement or that the disablement has come to an end or is no longer serious and prolonged, and appeals which finally assess the degree or nature of the disablement. In these three cases the tribunal will consist of two doctors of seven years' standing and a layman fulfilling the conditions already mentioned. The Lord Chancellor may make rules to govern the procedure, mode of proof, admissibility of evidence and representation of parties. In the application of the Act to Scotland and Northern Ireland the Lord Chancellor is, of course, replaced by the appropriate heads of the judiciary in those countries.

Agriculture.—In 1943 as in previous years an Agriculture (Miscellaneous Provisions) Act includes many minor matters of departmental concern—land drainage grants and schemes, the continuance of the lime subsidy, the increase of drainage rates where land has been improved, and the requisition of land under Defence Regulations which are temporary in duration (c. 16). Artificial insemination finds its way into the statute-book; the Minister of Agriculture obtains power to control the practice under regulations and a licensing system. Cattle, sheep, goats, swine, horses, domestic fowls, turkeys, geese and ducks are specified as the " animals " to which the regulations may apply.

Coal and Mining.—A Coal Act, for once uncontroversial, deals with technical matters unforeseen or overlooked when Part I of the Coal Act of 1938 unified coal royalties (c. 38).

The Mining Industry (Welfare Fund) Act continues till 1951 the levy of 1d. per ton of coal mined (7 & 8 Geo. 6, c. 3). The money goes to pay for pithead baths and washing facilities and for accommodating miners in hospitals and convalescent homes. The Act saves the provisions of Defence Regulation 60BA which extended the powers of the Miners' Welfare Commission.

Finance.—The annual Finance Act (c. 28) increases various duties and raises the rate of purchase tax to 100 per cent. There is increased punishment (both fine and imprisonment) for customs, excise and purchase tax offences. Allowances to cover the extra cost of living, paid to Crown servants who must live abroad to perform their duty, are not to be taxed as income. Fresh provisions for excess profits tax include concessions for wasting assets and for higher expenditure incurred in abnormal working—for instance in the war-time mining of a rich seam of ore. Perhaps the most interesting section in the Act catches evasion of excess profits tax through disposal of a Company's stocks below full market value. A speculator might buy a controlling interest in a distilling company owning substantial stocks of whisky; having procured the sale of the whisky to himself or his nominees at the pre-war manufacturing price, he might then dispose of the precious stuff at twenty times that value in markets white or black. Quite apart from pickings in the manipulation of the company's shares or in paying himself or his friends high commissions on the whisky sales, the racketeer would escape tax and leave the Inland Revenue to chase in vain some man of straw or some person resident abroad. This mischief is met by authorizing the Inland Revenue Commissioners to direct that a sum equal to the full amount of the tax be charged, and that this sum be a joint and several liability of the persons specified in the direction. A private member's successful amendment secured an exemption for barristers, solicitors and accountants

lawfully earning fees for ordinary professional services in connection with such transactions.

With income tax attacking more and more of the weekly wage-earners, the Chancellor of the Exchequer was urged to arrange for its deduction from current wages. The wage-earner was assessed to tax for any year on his actual earnings of that year; there were two half-yearly assessments; the collection of tax lagged some ten months or more behind the receipt of the wages assessed. The demand, when it arrived, overwhelmed him. In 1942 a White Paper on the Taxation of Weekly Wage-Earners (Cmd. 6348) protested the insuperable difficulty of collecting tax from current earnings. In 1943, under pressure, another White Paper (Cmd. 6469) was more hopeful. The Income Tax (Employments) Act, 1943, was the result (c. 45). The emoluments to which it applies were (*a*) wages earned by manual labour, (*b*) other wages calculated by the hour, day, week or any period less than a month, earnings not exceeding £600 a year, and certain pension payments—the foregoing " not being payments or other emoluments payable in receipt of service in or with the forces of the Crown." Already the second Finance Act of 1940 had made the employer a tax-collector in respect of past earnings. Henceforth when the emoluments mentioned above are paid, income tax is to be deducted (in accordance with Inland Revenue regulations) by the person who pays them, notwithstanding that no assessment to tax has been made in respect of them. The deductions will be calculated by reference to " tax tables " which will as far as possible secure that the total tax payable on the year's emolument is deducted from payments during the year, and that the tax " deductible or repayable " on the occasion of any payment of emoluments is duly proportioned. The new Act contains the necessary precautions for the production and inspection of wage sheets and records. Naturally the transitional arrangements involve formidably technical provisions.

Connected with the Budget plan of raising revenue is the Telegraph Act (c. 26). Parliament, not the Postmaster-General, lays down the maximum charge for telegrams. In 1920 the rate was fixed at 1s. for the first twelve words: now it will be 1s. for nine. The Act also deals with special charges for certain messages (such as greetings and congratulations), to discourage during war a popularity built up in peace.

A National Loans Act (c. 13) renews for another financial year the borrowing powers originally given to the Treasury by a National Loans Act of 1939 and annually continued. The usual Isle of Man (Customs) Act, three Consolidated Fund Acts (awkwardly numbered by the session instead of by the calendar year), and two Appropriation Acts complete the financial programme.

Contracts and Frustration.—The Law Revision Committee, presided over by Lord Wright, dealt in its 7th Report with the law of the frustration of contracts. Occasionally, and especially in wartime, an event supervenes which discharges both parties from any further performance of an agreement. The classic example was the sudden illness of Edward VII shortly before the day fixed for his coronation; it upset many contracts for the letting of rooms, windows, or seats for which the hirers had usually paid in advance on the line of the intended procession. In cases like *Krell* v. *Henry* and *Chandler* v. *Webster* the judges left the loss lying where it fell; the common-law courts would undertake no equitable apportionment. Forty years later, in the Fibrosa case [1943], A.C.32 (where an English company's contract to deliver machinery at Gdynia had become impossible owing to the German occupation of Poland), the House of Lords held that, on the contrary, the man who has received the pre-payment must hand it back. But he will often have done work or spent money for the purpose of his bargain; if so, he ought to be allowed to retain the appropriate sum for expenses incurred. The Law Reform (Frustrated Contracts) Act, 1943, confirms the view of the House of Lords and develops it as the Law Revision Committee had advised (c. 40). If a party to the contract has obtained some

valuable benefit (other than such a money payment as has already been mentioned) before the frustration, he must pay what the court considers just, " having regard to all the circumstances of the case." The Act, in some brief subsidiary clauses, explains what are to be deemed expenses and what is the effect of a party being covered by insurance. It will not apply to charter-parties, contracts of insurance, or contracts for the sale of perishable goods: these are left to the established principles of maritime and commercial law.

Price Control.—Section 9 of the Goods and Services (Price Control) Act of 1941 created the offence of holding up stocks; it sought to stop the retailer from imposing conditions of sale or otherwise discriminating between one buyer and another. A trader was, however, to be protected from this new law if he could prove that the sale (when regard was had to the quantity of goods which he and his assistants were requested to sell " or any other consideration ") would be contrary to the normal practice of his business or that it would involve him in some breach of a lawful obligation or that it would interfere with his arrangements for the orderly disposal of his stocks among his regular customers. These possible defences, the statement whereof will sufficiently indicate the difficulty of legislative interference with the course of shopkeeping, are left untouched by a short Price Control (Regulation of Disposal of Stocks) Act of 1943 (c. 47). Under a system of licences issued by the Board of Trade the Act allows the retailer some discretion to restrict his sales " to particular classes of buyers or otherwise as may be specified in a licence." The goods must be price-controlled goods of which the Board thinks that the sale should be restricted " in the interests of the efficient prosecution of the war or for maintaining supplies essential to the life of the community." The idea (it was explained) was that if, for example, the shopkeeper had thermos flasks in stock, he need not sell them to the first-comer but could keep them for a war-worker who could show special need.

Catering Wages.—Legislation of 1909 and 1918 established trade boards to fix wages for various scheduled or prescribed industries. Now the Catering Wages Act (c. 24) finds fresh scope for this policy. Critics of the extension wanted to know how "tips" would be dealt with. The answer seems to be that the Catering Wages Commission (a new body which the Minister of Labour and National Service is directed to set up) will investigate " the existing methods of regulating the remuneration and conditions of employment of workers to whom this Act applies," but the substantive provisions of the Act are concerned solely with the remuneration of the worker by the employer. Other matters into which the Commission will enquire are the health and welfare of the workers, the needs of visitors from overseas, and the development of the tourist traffic. The Commission's recommendations will be considered by the Minister and by other departments affected. The workers to whom the Act applies are those employed in any undertaking carrying on (whether for profit or not) " the supply of food or drink for immediate consumption, a provision of living accommodation for guests or lodgers, or for persons employed in the undertaking," and any other incidental or ancillary activities. The Commission may suggest to the Minister the improvement of existing machinery for regulating wages by agreement and may, after due enquiry, recommend the establishment of wages boards for which the Minister may by his order then provide. Wages boards may submit to him proposals for fixing the remuneration to be paid by the employers, the intervals for meals and rest, and the holidays to be allowed. Where the Minister makes a " wages regulation order " fixing " statutory minimum remuneration " (which will include holiday remuneration), a contract to pay this minimum " clear of all deductions " will be implied and will be substituted for any contract to pay less. Failure to pay the minimum or to allow the prescribed holidays and intervals for meals or rest will expose the employer to a fine of £20. If he be charged with under-payment, evidence

may be put in (after due notice to him) of any like contraventions on his part during the previous two years. Workers deemed incapable through " infirmity or physical incapacity " of earning the statutory minimum remuneration may be paid less, but only if the wages board issues a special permit and is notified that the employer is relying thereon. Employers must, of course, keep the prescribed records, and the Minister may compel the employers of workers covered by a wages board to register themselves and furnish particulars. Acts of Parliament normally do not bind the Crown; but this Act will apply to " civilian workers employed by or on behalf of the Crown in connection with any industrial undertaking."

The Nursing Profession.—New laws for nurses follow recommendations made in 1938 by the Athlone and Horder committees for England and the Alness committee for Scotland. The Nurses Act (c. 17) and the Nurses (Scotland) Act (c. 33) are alike framed in three parts. Part I recognizes a new grade of "assistant nurse." The Alness committee had discountenanced this step, but in the end Scotland came into line with England, though preferring to treat the new provision as a five-year experiment. In both countries there will be a roll of assistant nurses. Rules made by the General Nursing Council of England (and by the similar Scottish body) will fix the conditions of admission to the roll, prescribe the requisite training and experience, and allow " existing assistant nurses " who can produce satisfactory evidence of good character, suitable age, and *bona fide* practice as nurses under proper conditions to come on to the roll in the next two years—much as the " 1921 dentists " and the pre-1940 practising architects were allowed registration. No one who is not a duly registered nurse or a duly enrolled assistant nurse may, after a date to be fixed by ministerial order, " take or use the name or title of nurse, either alone or in combination with any other words or letters "; there is, however a justifiable exception for children's nurses. Proceedings for breach of this prohibition will be taken only at the instance of the central department; no one will be guilty merely because other people refer to him as nurse. The profession being predominantly feminine, the draftsman's " he " and " him " are arresting applications of the first section of the Interpretation Act.

Part II of the two new Acts introduces, under a system of licensing and inspection, control of institutions or agencies for supplying nurses to the public. These bodies will no longer be able to send unqualified persons to nurse patients in hospitals or private houses. Miscellaneous provisions in Part III include a new power to prescribe the qualifications of teachers of nursing.

Miscellaneous.—Local government elections are postponed for yet another year by the Local Elections and Register of Electors (Temporary Provisions) Act (7 & 8 Geo. 6, c. 2) because there is no up-to-date register, local government staffs are depleted, and local authorities can carry on by co-opting new members.

The consolidation of the Courts (Emergency Powers) Acts and the change in the law concerning frustration of contracts have already been mentioned. Three other Acts of 1943 are sponsored by the Lord Chancellor. The first is the Evidence and Powers of Attorney Act (c. 18), extending a statute passed in 1940 which had enabled officers of His Majesty's Forces and members of the diplomatic and consular services of a foreign power to administer oaths and take affidavits. This had helped British prisoners of war to authenticate documents in captivity; when, however, Switzerland replaced the United States as the usual "protecting power," legal difficulties arose. The Act gives the Lord Chancellor wide powers of making orders whereby camp leaders and ship captains will be authorized to administer oaths. Steps are also taken to allow the deposit of photographic copies of powers of attorney executed outside the United Kingdom during the war and to facilitate the proof of notarial acts done by foreign diplomatic and consular officials.

Secondly, under the Universities and Colleges (Trusts) Act schemes can be

made by the universities and colleges of Oxford and Cambridge and " the College of St. Mary of Winchester near Winchester " so that they may pool in one fund various endowments at present held separately (c. 9). A Private Act had done something of this kind for Liverpool University in 1931. Oxford University, it was said, had as many as 260 of these funds, the income therefrom ranging from four figures down to a pound or two. The university or college will make the scheme; it will be laid before Parliament and, if not objected to by either House, will be approved by Order in Council.

The third of the Lord Chancellor's minor bills mitigates the effect of high taxation upon limited income derived from settled property. The existing law requires a tenant for life to meet income expenses out of the income of the property; he cannot pay for them out of the capital of the settlement or fund. The Settled Land and Trustee Acts (Court's General Powers) Act, 1943, enables the Court in a proper case, during the war, to allow the capital to be applied to meet what would normally be income expenses (c. 25). The Court must look at his general financial condition " including the extent of the obligations whether legally enforceable or not and whether or not relating to the land " and must be satisfied, amongst other things, that his available income from all sources " has been so reduced by reason of circumstances arising out of war conditions as to render him unable to bear the expense thereof or unable to bear it without undue hardship."

In 1917 a Police (Appeals) Act gave a right of appeal where the award against a policeman was that he be dismissed or required to resign. A new Act (c. 8) extends the right to cases where the award is reduction in rank or pay. The appeal is from the disciplinary authority (the chief constable in a county, or the watch committee in a town) to the Secretary of State against both the decision and the punishment. Admirable in purpose, the Act is one which the advocates of self-contained intelligibility could criticize for its economy of legislative statement.

Delegated Legislation.—Departmental regulations and orders, especially the orders made under Defence Regulations, continue to be voluminous in 1943, but the annual total registered under s. 3 of the Rules Publication Act has already begun to fall below that of the peak of 1942. The problems of the emergency have had four years in which to reveal themselves and the legislative solutions are stabilized. With the worst of the war now past the House of Commons can re-assert control with less risk of hindering the national effort. Several motions were moved in 1943 against particular Defence Regulations, though without success. Major Petherick's resolution, admitting the necessity of giving abnormal powers to the executive for war purposes but insisting on the duty of Parliamentary vigilance, was agreed to on May 26, after an interesting debate.

The collected edition of the Statutory Rules and Orders of 1943 occupies two volumes, the larger of the two being exclusively filled by Defence Regulations and orders made thereunder. The new Defence Regulations cover such diverse matters as the carrying on of offensive trades, visitors from Gibraltar, suspension of the certification of electricity meters, the discipline of the Merchant Navy, and a power for officers of the Post Office to require the production of identity cards. Defence Regulation 55 (general control of industry) continues to be the most prolific in orders. Two points of form are noteworthy. First, a single Order in Council under the Emergency Powers (Defence) Act no longer contains several Defence Regulations; there is a device for separating the Regulations, each under its own S.R. & O. number, so that an adverse resolution, if successfully fired at a particular Regulation, will not bring down more than the one bird at which it was aimed. Secondly, the use of explanatory footnotes is being extensively developed. Active back-benchers use to the full the opportunities of question-time in their demand for clearer exposition. The smaller of the two volumes contains the subordinate legislation flowing from statutes other than the

Emergency Powers (Defence) Act. Here, for instance, are the Lord Chancellor's rules for pensions appeal tribunals, wherein we may note that tribunals are not to reject evidence merely because it would be inadmissible in courts of law. The alphabetical subject-headings, ranging from "Adoption of Children" to "Workmen's Compensation" show the wide scope of the delegated powers, their value in emergency, and the intolerable burden which would be imposed upon Parliament if the delegation were substantially cut down.

2. NORTHERN IRELAND

[*Contributed by* Sir Arthur S. Quekett, K.C.]

In the year 1943 thirteen public general Acts and one local Act were passed. All of them belong to the session 7 & 8 Geo. VI. The smallness of the year's legislative output was partly due to the fact that the session was extended into the following year, for the purpose of taking the later stages of some important measures previously introduced.

Citation and Effect of Acts of Parliament.—The Acts of Parliament (Citation and Effect) Act (c. 3)—a short technical measure dealing with the mechanics of legislation—may be of interest beyond the circle of technicians.

The statutes passed by the Northern Ireland Parliament from its establishment until the end of the year 1942 were printed so as to show the regnal years in the same manner as is done at Westminster. Thus, at the head of each print of an Act there appeared the regnal years of the session—e.g., Fisheries Act (Northern Ireland), 1942 (6 & 7 Geo. VI, ch. 22). This description, as has been pointed out, involved three reckonings of time. There was the calendar year (1942 in the instance given above) incorporated in the short title; the Act formed a chapter in the series of Acts passed in a particular Parliamentary session; and these sessions were described in relation to the years of His Majesty's reign. The continued use of this ancient system had been subjected to criticism from the judicial bench and in legal literature. The same system was used by the pre-union Parliament of Ireland. Apparently it was not used by the Scots Parliament, if one may judge from references to Acts of that Parliament in the Imperial statute book. A recent citation of this kind is to be found in s.7 of the Divorce (Scotland) Act, 1938, which repeals "the Act of the Parliament of Scotland, 1573, cap. 55."

In the year 1875 a Select Committee on Acts of Parliament reported that it would be an improvement to follow the Indian system of numbering, and that they should bear the date of the year instead of the reign—for instance, 38 & 39 Vict. c. 100 would be numbered Act 100, 1875. At the present time the British Empire supplies various instances of a modern system of citation, and in some cases the series is reckoned by "chapters" and not by "numbers." The Statute Law Committee of Northern Ireland recommended the modern system, and it was adopted in the year 1943 as respects the printing of Acts of the Northern Ireland Parliament. The use of "chapter" as compared with "number" won the day; it represents the minimum change necessary to achieve the object in view, and it does not risk any confusion with the "No." of the Statutory Rules and Orders or the "opus number" of musical citation. Thus the first Act of that year is headed "1943. Chapter 1" instead of "7 Geo. 6. Chapter 1." At the same time the Acts do not dispense with references to the Crown in its legislative capacity; on the first page of each statute, as separately printed, the regnal year appears above the imprint of the Royal Arms; and the words of enactment "by the King's most Excellent Majesty and the Senate and the House of Commons" remain unaffected. The change in printing was made under the authority of the Government and the Speakers of the two Houses of Parliament. This, however, did not fully

authorize the new reckoning, because the former method of citation was governed by statute. Provision was therefore made by s. 1 of the Act of 1943 that statutes of the Northern Ireland Parliament passed after January 1, 1943, " may be cited in any Act, instrument, or document by reference to the calendar year in which the Act was passed and the chapter of the Act in that year." The same enactment preserves the validity of the method of citation by the short title and the other methods auhorized by s. 35 of the Interpretation Act, 1889 (which had been applied to Acts of the Northern Ireland Parliament). The volumes of the statutes for the year 1937 and onwards have been related to calendar years irrespective of the sessions of Parliament; the Act of 1943 assigns to each statute its chapter number in the calendar year series. The arrangement of Acts by calendar years obtains for the purpose of the annual summaries in this *Journal*.

S. 2 of the Act of 1943 has some legal history. It removes doubts as to whether the time-honoured rules contained in the Acts of Parliament (Commencement) Act, 1793, and the Acts of Parliament (Expiration) Act, 1808, can be relied upon in the construction of Acts of the Northern Ireland Parliament. The section accordingly makes declaratory and retrospective provision as follows:—

(*a*) The Clerk of the Parliaments is to insert on every Act of Parliament, immediately after its title, the day, month, and year of the Royal Assent, and that date is declared to be the date of the commencement of the Act unless some other commencement is provided;

(*b*) Where a Bill, introduced in any session for the continuance of an Act limited to expire in that session, receives the Royal Assent after the expiring Act has run out, the expiring Act is to be deemed to be continued as from its expiration.

The doubts which are thus removed had come up in the first days of the Northern Ireland Parliament as regards the application of the Interpretation Act, 1889, to Acts of that Parliament. The view was then taken that the 1889 Act, as an existing law, applied to the interpretation in Northern Ireland of Acts of the United Kingdom Parliament, but that it could not be relied on for the interpretation of Acts of the Northern Ireland Parliament. Accordingly one of the first enactments passed by that Parliament in 1921 was that which applied the 1889 Act for the purpose of the interpretation of its Acts. The Acts of 1793 and 1808 appeared, on subsequent consideration, to be on the same footing as the Act of 1889. But, in accordance with modern opinion, the provisions of the earlier statutes were enacted afresh in 1943 and not merely applied " by reference."

Rent Restriction Law.—Rents Tribunals were set up by an Act of 1941[1] in order to hear applications by persons who had become tenants of dwelling-houses on or after April 1, 1941, and had been obliged to leave their previous homes on account of war damage. The Act was extended in two respects by s. 1 of the Rent Restriction Law (Amendment) Act (c. 9), which removed the requirement that the applicant should have been affected by war damage, and enabled the tribunals to hear applications from persons who became tenants on or after September 1, 1939. The duration of the Act of 1941 was at the same time extended.

S. 2 of c. 9 enacted some amendments in the Rent Restrictions Acts. It requires that the provision of alternative accommodation by the person seeking possession shall be a necessary condition of the giving by the court of a judgment for possession, except where (*a*) the dwelling-house has been let to an employee in consequence of his employment, or (*b*) where the house is required for an agricultural worker, or (*c*) where the landlord gave up the house in consequence of his service in H.M. Forces, or of his having undertaken work of national importance.

[1] *Jour. Comp. Leg.*, Third Series (1943), Vol. 25, p. 32.

Social Services.—The Pensions and Determination of Needs Act (c. 8) contains various provisions for the benefit of persons seeking unemployment assistance, supplementary pensions, or financial assistance for the blind. It modifies the enactments governing the assessment of capital assets and superannuation payments for the purpose of calculating the resources of an applicant. It applies the rules abolishing the "household means test" to assistance for blind persons. It provides that financial assistance granted by a local authority to a blind person shall not be taken into account in determining the amount of that person's old age pension. A board of guardians in determining the resources of applicants for outdoor relief, is forbidden to take into account certain forms of State assistance given to other members of the same household as the applicant. The supplementary pensions scheme is extended to widows, irrespective of age, who are receiving contributory pensions which include allowances in respect of children. The Act also contains a provision that residence in the Isle of Man may be reckoned as residence in the United Kingdom for the purpose of the statutory conditions governing the payment of non-contributory old age pensions.

The Workmen's Compensation Act (c. 6) provides, in the first place, that, during the emergency period, the tribunal by whom a claim under the Workmen's Compensation Acts is dealt with may, in determining dependency and assessing its degree, disregard the earnings of a widow or, in certain cases, the earnings of a female member of a workman's family (other than the widow) acting in the capacity of housekeeper, if the tribunal is satisfied that such earnings were in respect of employment entered into on or after September 3, 1939, and that the employment would not have been entered into but for the war. The principal Act of 1927 had provided for the re-calculation of the compensation of a workman in a case where it can be shown that for a period of twelve months preceding the review he would have earned, owing to a variation in wage rates, wages greater or less by more than 20 per cent. than in the corresponding period before the accident. The Act of 1943 removes the limiting factors as to time and percentage increase, and it provides for the immediate and automatic re-assessment of the pre-accident earnings of a workman on changes occurring, either after the accident or during the relevant period before it, in rates of remuneration; this provision operates both when wages rise and when they fall. The 1927 Act had also provided that a certificate of disability, in the case of industrial diseases, could only be granted by the examining surgeon of the district where the workman was employed. Under the Act of 1943 provision can be made for the giving of the necessary certificate by the examining surgeon of the district where the workman resides or to which he has been removed for treatment. The Act provides that advances made by the Minister of Pensions to the dependants of merchant seamen may, if subsequent inquiry shows that the claim is for workmen's compensation and not for pensions, be recovered either from the employer liable to pay compensation or, where the employer has paid the money into the county court, out of the money so paid.

The Workmen's Compensation (Temporary Increases) Act (c. 13) provides for increases in the supplementary allowances payable under the Workmen's Compensation (Supplementary Allowances) Act of 1940 to a workman entitled to weekly payments by way of compensation; and it continues the allowance payable in respect of a child until the child ceases to attend school or until July 31 next following the day on which the child attains the age of 16, whichever is the earlier. Provision is also made by the Act that, in cases where death results from injury, the lump sum and children's allowances, which previously were not to exceed £600 in the aggregate, may be increased to £700, and that, in cases where there are no children but where the workman left an adult wholly dependent on him, the previous maximum of £300 may be increased to £400. The measure is limited to expire on December 31, 1946.

Penalties for Special Offences.—The Civil Authorities (Special Powers) Act

(Northern Ireland), 1922, put into effect various regulations for preserving the peace and maintaining order, and enabled the Minister of Home Affairs to make further regulations for that purpose. The Act of 1922 provided that a person alleged to be guilty of an offence against such regulations should be tried by a court of summary jurisdiction, and not otherwise; that the punishment for an offence should be imprisonment for not more than two years or a fine not exceeding £100, or both imprisonment and fine; and that the court must be constituted of two or more resident magistrates. The Civil Authorities (Special Powers) Act, (c. 2) amends the earlier enactments by providing that the more serious offences may be tried on indictment; that the punishment for a person convicted on indictment may be penal servitude for not more than 14 years or a fine not exceeding £500, or both imprisonment and fine; and that minor offences (to which penalties less severe than those in the Act of 1922 may be assigned by regulations) may be tried by a summary court consisting of one resident magistrate only.

Taxation.—The only new taxation of the year was that imposed by s. 1 of the Finance Act (c. 5), which increased both the ordinary and the reduced rates of entertainments duty. At the top of the new scale, where the payment for admission (excluding duty) exceeds 6s. 11d., the tax is 5s. 10d. for the first 6s. 11d. and 5d. for every 6d. or part of 6d. over 6s. 11d.

Agricultural operations were favoured by some reliefs from the excise duty on mechanically-propelled vehicles. S. 2 of c. 5 provides that the owner of an agricultural tractor may use the vehicle under a 5s. licence to carry agricultural produce, or articles required for agricultural land, without limitation as to distance; apart from this enactment, a 5s. licence only allowed the owner of the tractor to carry such goods from one part of his land to another; the concession is temporary and subject to withdrawal at the end of the emergency period. The Finance (No. 2) Act (c. 11) permits owners of mechanically-propelled vehicles used only for the conveyance of their own agricultural produce to carry other persons' produce, or to lend their vehicles to neighbouring farmers for harvesting work, without thereby incurring any liability to the higher rate of duty on the vehicles which they would otherwise be required to pay; this concession is to operate only during such periods and for such purposes as may be specified by an order of the Ministry of Finance.

S. 3 of the Finance Act (c. 5) gives legislative effect to what had been a long-established practice in the levying of estate duty, by providing that, on the death of a person having a limited interest in the unascertained residue of an estate, estate duty will be payable in respect of that interest.

S. 4 of the same Act gives relief from certain death duties in the case of dispositions of property by adopters and adopted children, by providing that the duties which become leviable in respect of such dispositions shall be payable at the same rate as if the adopted child had been a child born to the adopter in wedlock; this relief applies only in cases where the disposition by the adopter or adopted child had been made more than three years before the date on which the property passes.

S. 5 of the same Act reduces from 4 per cent. to 3 per cent. the rate of interest charged on deferred payments of death duties.

S. 6 exempts trade unions and trade protection associations from the stamp duty (generally known as "corporation duty") chargeable under Part II of the Customs and Inland Revenue Act, 1885.

Qualification of Solicitors.—The Solicitors Act (c. 4) empowers the council of the Incorporated Law Society of Northern Ireland to make special provision, on account of war circumstances, regarding service under indentures of apprenticeship and the passing of examinations by persons desirous of being admitted as solicitors.

Prolongation of Parliament.—The life of the fifth Parliament was prolonged

for a further year—that is, until March 1, 1945—by a resolution of the Northern Ireland House of Commons passed under the power given to it by the Imperial Parliament in s. 2 of the Prolongation of Parliament Act, 1943.

Delegated Legislation Under Defence Regulations.—In the course of emergency administration, orders of great importance continued to be made by departments of the Northern Ireland Government by virtue of powers delegated to them by Imperial authorities under the Defence (General) Regulations, 1939. Under Regulation 62 the Ministry of Agriculture made the Tillage (Northern Ireland) General Order, 1943, giving directions as to the portion of arable land which an occupier had to cultivate and maintain in cultivation for the purpose of producing crops for harvesting in the year 1944 (S.R. & O. (N.I.), 1943, No. 122), and under the same Regulation the Ministry gave further directions with respect to the use of grass-seeds and fertilisers on land sown down to grass (S.R. & O. (N.I.), 1943, No. 121).

3. ISLE OF MAN

[*Contributed by* His Honour R. D. Farrant]

Thirteen Acts were passed by Tynwald for the year 1943.

Legal Profession.—Of these the Attorneys (Emergency Provisions) Act, 1943, gives power to the Governor of the Island to authorize the chief clerks of advocates on war service to act on their behalf in conducting legal business, executing documents, and appearing in Chambers or before the chief clerk on behalf of clients provided that such clerk might not appear in open court. The advocate to be responsible for the acts and defaults of his clerk in all respects as if such acts and defaults were those of the advocate.

Marriage.—The Marriage (Members of His Majesty's Forces) Act, 1943, is passed to enable marriages between service men or women to be celebrated in other buildings than those either in England or Scotland where such marriage should legally be celebrated had not the party or parties been temporarily resident in the Isle of Man. There is an extension of time for one year after the complete publication of banns during which the marriage of such people may be celebrated, and there is also a provision as to the issue of licences in such cases.

Justices.—The Justices Amendment Act, 1943, authorizes the Chairmen of Parish and Village Commissioners to be Justices of the Peace during their term of office and also to take certain attestations according to the law of the Isle of Man.

Income Tax.—The Income Tax Appropriation Act, 1943, and the Income Tax Appropriation (No. 2) Act, 1943, authorize the appropriation by the Treasurer of the Isle of Man of the interest and sinking fund in respect of the sum of £500,000, which has been paid as a war contribution by the Island, and of the sum of £250,000 made by way of loan free of interest as a further contribution towards the cost of the war.

Liquor Licensing.—The Licensing Amendment Act, 1943, gives the Governor power by order to alter the closing hours of licensed premises during the emergency.

Personal Injuries.—The Personal Injuries (Emergency Provisions) Act, 1943, defines "physical injury" to include tuberculosis and any other organic disease, and the aggravation thereof, as an extension of the principal Act and includes numerous amendments of the Schedules following on the lines of the Imperial Amending Acts.

Vaccination.—The Vaccination Act, 1943, provides for payment to Public Vaccinators being increased.

Forestry.—The Tree Planting Act, 1943, provides that trees of the kind

defined in the Act must not be cut down without the permission of the Forestry Board with certain exceptions.

Rent Restriction.—The Rent and Mortgage Interest (Restrictions) Act, 1943, gives further powers to the court to defer orders for possession of dwelling-houses in cases of exceptional hardship which were not covered by the previous legislation on the subject.

War Service.—Temporary provisions have been made in respect of the absence on war service of members of the House of Keys and public authorities.

Civil List Pensions.—The Pensions (Meritorious Service) Act, 1943, authorizes the Governor to apply out of Government moneys sums not exceeding £150 in any one financial year to pay pensions to persons who by personal service or by performance of duties or useful discoveries in science or attainments in literature or the arts, or by their unselfish or self-sacrificing efforts to investigate or preserve the history, archæology, music, or literature, or other branches of culture of the Manx nation, have merited the gratitude of the Government and people of the Island.

War Damage.—The War Damage (Amendment) Act, 1943, follows the lines of the Imperial Amending Act fixing the determination of payments by reference to prices current at March 31, 1939 contains other amendments of the principal Act.

4. EIRE

[*Contributed by* A. DENIS PRINGLE, ESQ., *Senior Counsel*]

PUBLIC Acts passed, 24. A smaller number of statutes was passed in the year 1943 than in any other year since the coming into being of the State, and few of them are of more than local importance.

Accidental Fires.—The Accidental Fires Act (No. 8) provides that no legal proceedings can be instituted by a person suffering damage by reason of fire accidentally occurring in or on the building *or land* of another person, but the Act is not to affect legal proceedings for the enforcement of any covenant or agreement contained in any lease or letting of a building or land. The Act of the Parliament of Ireland 2 Geo. 1, cap. 5, sec. 1, which only prevented such actions against a person in whose " house or chamber " an accidental fire began, is repealed.

Elections.—The General Elections (Emergency Provisions) Act (No. 11) was passed to deal with the situation arising during the present national emergency in the interval between the dissolution of Dáil Eireann and the election of a new Dáil. It provides that the Taoiseach (Prime Minister) may advise the President to direct a General Election without the dissolution of the Dáil, and the President shall thereupon direct by proclamation a General Election, but he may in his absolute discretion refuse to do so if the Taoiseach has ceased to retain the support of a majority in Dáil Eireann. On the completion of the General Election the President is to dissolve the outgoing Dáil and summon the new Dáil within fourteen days. It is also provided that members of the outgoing Dáil cease to be members on its dissolution, and persons elected at the General Election become members of the Dáil on the day after the dissolution of the outgoing Dáil. In regard to the Senate, it is provided that no General Election for the Senate shall take place in consequence of a dissolution under the Act of an outgoing Dáil, but a General Election for the Senate shall take place not later than ninety days after a direction under the Act by the President for a General Election for the Dáil. The Minister for Local Government and Public Health is empowered to make any necessary modifications in the Electoral Acts and the forms prescribed thereby in order to carry out the provisions of the Act.

Finance.—The Finance Act (No. 16) continues Income Tax at seven shillings and sixpence in the £. A new exemption section in regard to entertainments duty

is substituted for that contained in the Finance (New Duties) Act, 1916, and the maximum period of imprisonment for non-payment of a tax or duty is fixed at six months.

Intoxicating Liquor.—The Intoxicating Liquor Act (No. 7) contains certain important amendments in the existing code, and provides for the licensing of aerodromes and passenger aircraft. It makes changes in the prohibited hours of trading including sale to *bona fide* travellers. The ordinary hours of permitted trading are 10 a.m. to 10 p.m. (winter-time period) and 10.30 a.m. to 10.30 p.m. (summer-time period), but in county boroughs (Dublin, Cork, Limerick, and Waterford) no trading is allowed between 2.30 p.m. and 3.30 p.m. No Sunday trading is allowed in areas other than county boroughs, while trading is allowed in Dublin on Sundays between 1.30 p.m. and 3 p.m. and in other county boroughs between 1 p.m. and 3 p.m. *Bona fide* travellers cannot be supplied between midnight and 6 a.m. District Justices are given a wider discretion in regard to the endorsement of licences, and all endorsements prior to the passing of the Act are to be regarded as gone. Part III of the Act makes provision for the grant of new licences in certain cases; for instance, in the case of restaurants, in the case of the substitution of more convenient premises for those previously licensed, and in the case of destroyed premises. Card-playing on licensed premises for stakes is to be permitted where friends of the licensed person are being *bona fide* entertained by him in a part of the premises other than that usually used for the sale of intoxicating liquor (contrary to the decision in the case of *Rex* (*McNally*) v. *Murphy* 42 I.L.T.R. 88).

Landlord and Tenant.—The Landlord and Tenant (Amendment) Act (No. 10) makes certain amendments in the Act of 1931 in regard to reversionary leases. Formerly such leases could only be obtained under the Act in urban areas, but this is extended to other areas where the building lease is for a term of not less than twenty years. Provision is also made for the cases of buildings erected by a tenant pursuant to an agreement for a building lease, and of " partly-built leases " where only part of the buildings are erected by the building lessee.

Solicitors.—The Solicitors Act (No. 12) affirms (with retrospective effect) the exemption of solicitors employed as such in the whole-time service of the State from the taking out and holding of Annual Solicitors' Certificates.

II. NORTH AMERICA

1. DOMINION OF CANADA

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THE Fourth Session of the Nineteenth Parliament began on January 28, 1943, and closed by prorogation on January 26, 1944. Of the 131 Acts passed and comprised in the Statutes of 1943–44, 92 dealt with divorces, 33 were public, and 6 were private. Most of the public Acts are concerned, either directly or indirectly, with the prosecution of the war.

Administration of Justice.—C. 25 amends the Exchequer Court Act by declaring, for the purpose of determining liability in any proceeding by or against the Crown, that any person who was a member of the armed forces at any time subsequent to June 24, 1938, shall be deemed to have been at such time a servant of the Crown. The date refers to an earlier amendment whereby liability was accepted for the negligent acts of all servants of the Crown while acting within the scope of their duties. Many claims have been brought since the beginning of the present war on alleged negligence of members of the forces, and liability has been admitted whenever negligence was clearly established. It

was realized, however, that the question was not free of doubt, and whenever negligence was denied it was usual also to take the ground that the member of the forces was not an officer or servant of the Crown. The present amendment establishes liability for negligence of members of the armed forces, and also enables the Crown to recover loss suffered as the result of negligence in any case where a master may recover for injury to his servant.

Agriculture.—C. 12 amends The Wheat Acreage Reduction Act, 1942. The term "abandoned" when used with reference to the cultivation of land is defined and new sub-sections clarify the method of computing basic acreages and wheat acreage reductions. A number of the provisions of the Act have been re-worded to make them applicable to years other than 1942 only, in respect of which payments may be made under the Act, and otherwise to make clear the intent of the original enactment.

The Farmers' Creditors Arrangement Act, 1934, is amended and consolidated by c. 26. The consolidation retains the two main objects of the original Act, which were to provide a simplified procedure whereby distressed farmers could effect compositions or arrangements with their creditors and, in cases in which compositions could not be effected, to provide an inexpensive procedure whereby the farmer debtor could make an assignment in bankruptcy and obtain a fresh start. By an amending Act of 1935 it was decided that the procedure for proposals of composition should be limited in its application to debts incurred before May 1, 1935. For the rest, the amending Acts of 1935 and 1938 were largely ancillary or for purposes of clarification. The present amendment substitutes the county or district court for the provincial Boards of Review appointed under the original Act to formulate proposals in cases in which the farmers and their creditors cannot agree, and provides the procedure for an appeal from the decision of the district or county court to a judge of the Superior or Appeal courts of the province sitting as a special court. It has been found that the limitation introduced by the amendment of 1935 created considerable hardship and in some cases prevented effective proposals being made. The present enactment makes it a condition to the filing of a proposal that two-thirds of the debts be incurred before May 1, 1935, but when this condition is met all the debts of the farmer may be included in the arrangement. The procedure for proposals of composition is confined to the provinces of Alberta, Saskatchewan and Manitoba. The Act remains supplementary to the Bankruptcy Act.

Criminal Law.—C. 23 introduces a number of improvements to the procedural provisions of the Criminal Code as well as certain changes necessitated by the reorganization of the magistrates in the provinces of Nova Scotia and New Brunswick. The enforcement of the provisions with respect to betting has been facilitated by an amendment which makes it sufficient to prove that the place alleged to be a common betting house was equipped in such manner as to be likely to be used for such purposes. Formerly, it was necessary to prove that the place was actually opened, kept or used for these purposes. The section prohibiting the advertising of betting information has been similarly amended. A further amendment is designed to prevent illegal dealings in war saving stamps and other securities on the chain letter basis. The section dealing with deceptive and misleading advertisements has been enlarged to include advertisements intentionally so worded or arranged as to be deceptive or misleading. Another amendment restores from six to twelve the number of jurors in criminal cases in the province of Manitoba.

Customs and Excise.—C. 7 varies the rates on a number of items listed in Schedule A to the Customs Tariff, and places a number of other items on the free list. Additional customs duties on whisky, brandy, rum, gin and the other goods specified in items 156, 156a, and 156b, are increased from $5 to $7 per gallon.

The Excise Act, 1934, has been amended by c. 9 to keep it abreast of developments in the distilling industry. It seems that the primary and secondary distillations, formerly distinct and separate steps, now usually form a continuous process, necessitating some streamlining of the terms applied to equipment used in the rectification and measurement of spirits and of the regulations for determining the quantity and strength of the output. Other changes deal with inventories of materials used in the manufacture of spirits, ales, tobaccos and cigars, and of the manufactured products, and the transporting, warehousing and removal in bond of these goods. A new method of determining the amount of the drawback on exported beer is to be adopted, by which the beer will be tested for malt content before a refund may be made of the duty paid on the malt. Experience has shown the malt content to be generally higher than that actually used in the brew. The amendment ensures that the refund will not be higher than the duty paid. To give effect to the budget resolutions of March 2, 1943, the excise duty on spirits distilled in Canada is increased from $9 to $11 per proof gallon, the excise duty on Canadian brandy is increased from $7 to $9 per proof gallon, and the additional duty on duty-paid Canadian brandy increased from $1 to $2 per proof gallon.

The Special War Revenue Act is amended by c. 11. A new provision makes the Crown liable for the payment of excise and sales taxes when it engages in manufacturing activities and thus competes with private enterprise. The Customs Act and The Excise Act contain similar provisions. A new tax is levied on postal matter, the effect of which is to increase the existing rates from 2 to 3 cents on local (drop) letters and on postal cards, and from 3 to 4 cents on letters sent for any distance within Canada. The rates on letters and postal cards to members of the armed forces overseas remain as before. The provisions with respect to deductions, refunds and drawbacks have been revised and consolidated, and Schedules II and III to the Act are amended to give effect to the budget resolutions of March 2, 1943.

Evidence.—The Canada Evidence Act is amended (c. 20) by the addition of three new sections concerning the taking of affidavits abroad. Under the new provisions oaths, affidavits, affirmations or declarations administered, taken or received outside of Canada by Officers of any of His Majesty's diplomatic or consular services abroad, by Officers of the Canadian diplomatic, consular and representative services abroad, and by Canadian Government Trade Commissioners and Assistant Trade Commissioners abroad shall be of the same force and effect as if they had been duly administered, taken or received in Canada under the provisions of this Act .

The Judiciary.—C. I extends the term in office of Sir Lyman Poore Duff, the Chief Justice of Canada, for a further period of one year from January 7, 1943. The tenure of Sir Lyman, who had reached the retiring age, had been continued for three years from January 7, 1940, by c. 14 of the Statutes of 1939. Sir Lyman has now retired from active duty, after an exceptionally long record of public service. He was first a judge of the Supreme Court of British Columbia and, since 1906, a period of 37 years, a member of the Supreme Court of Canada, of which he was Chief Justice for 10 years. He has been succeeded as Chief Justice of Canada on January 7, 1944, by the Honourable Mr. Justice Thibaudeau Rinfret, senior puisne judge of the Supreme Court.

Mineral Resources.—By The British Columbia Indian Reserves Mineral Resources Act (c. 19) the Parliament of Canada ratifies an agreement dated January 26, 1943, between the Governments of the Dominion and the Province of British Columbia, under which the Province shall have charge of the development of all minerals and mineral claims in, upon or under the lands set apart in British Columbia for the exclusive use of the Indians. The term refers, of course, to the native aboriginal population. When the lands were transferred to the Dominion in trust for the Indians ownership of the precious metals

remained in the Province. The agreement, which has already been ratified by the provincial legislature, will simplify the situation and is expected to further the development of the mineral deposits underlying these lands.

National Fitness.—C. 29 is an Act to establish a Council for the purpose of promoting national fitness to consist of not less than three and not more than ten members to be appointed by the Governor in Council. The chairman, who is to be known as the National Director of Physical Fitness, will direct the work which is to be accomplished by the extension of physical education in all educational and other establishments, by encouraging sports and athletics, by training teachers, lecturers and instructors in the principles of physical fitness, by organizing such activities and providing the necessary facilities therefor, and by the amelioration of physical defects amenable to improvement through these exercises. The Minister of Pensions and National Health may enter into agreements with the provincial governments to provide financial assistance in developing fitness plans on a pro rata basis of population or to the extent of one-half of the actual expenditure. The Act contemplates the establishment of a " National Fitness Fund," and will come into force on a date to be fixed by proclamation of the Governor in Council.

Parliamentary Assistants.—During the past ten years or so consideration has been given from time to time to the appointment of a number of the younger members of the House of Commons as Parliamentary Assistants to the Ministers of the Crown. The need having been emphasized by the stress of war conditions several of these appointments were made early in the 1943 session, and c. 6 authorizes the payment of a yearly salary of $4,000 to each Parliamentary Assistant so appointed by the Governor in Council. Their function will be to assist their Ministers in such manner and to such extent as the Ministers may determine and, in the absence of their chiefs, to represent their Departments in the House. The Act provides that payments made thereunder shall not disqualify any such appointee, if a member of the House of Commons, or restrict him in any way in the exercise of his rights as a Member of Parliament.

Railways.—C. 18 appoints George A. Touche and Company, of Toronto and Montreal, as independent auditors for 1943, to make a continuous audit of the accounts of National Railways as defined in The Canadian National-Canadian Pacific Act, 1933.

The Canadian National Railways Financing and Guarantee Act, 1943, (c. 22) authorizes the provision of moneys to meet certain capital expenditures and capital indebtedness made and incurred by the Canadian National Railways system during 1943. The company is authorized to issue bonds, debentures or other securities for these purposes not exceeding $6,046,300 in principal amount, and the Governor in Council may guarantee the principal, interest and sinking funds of these securities. The Minister of Finance, with the approval of the Governor in Council may make temporary loans to the company to meet authorized expenditures, such loans to be secured by the securities which the company is authorized by this Act to issue.

Taxation.—C. 13 amends The Excess Profits Tax Act, 1940, in several respects, mainly to provide for uniformity and equality of treatment in cases in which the amount of capital employed in the standard period has been increased or reduced, to give taxpayers parity of treatment under this Act and the Income War Tax Act, to prevent the overlapping of instalment payments and to make the payment dates for unincorporated taxpayers the same under both Acts. The provisions for the prevention of tax evasion, made this session in the Income War Tax Act, appear also in this amendment.

The amendments to the Income War Tax Act (c. 14) contain a number of improvements and alterations designed to make more effective the changes introduced in 1942. These include the placing of the personal income tax on a full " pay-as-we-earn " basis, completing the transformation begun in 1941

with the enactment of the national defence tax and carried last year to an advanced stage in collecting a graduated tax at the source. Commencing with 1943 the income tax currently collected at the source or paid in quarterly instalments applies in respect of the tax assessed on the income of the current year. The balances payable at the end of the year will be reduced by collecting 95 per cent. of the total tax liability instead of the 90 per cent. previously collected. Farmers, who cannot very well estimate their income in advance, will be required to pay two-thirds of the tax before December 31 and the balance when the final returns are filed. To avoid the burden that would be caused by the overlapping of the whole of the tax for 1942 and 1943 the liability for 1942 is reduced by one-half in the case of earned income, and half of the 1942 liability in respect of investment income is deferred until the death of the taxpayer. Investment incomes in the lower brackets (up to $3,000) will be treated in the same way as earned income—one-half of the 1942 liability will be forgiven instead of being deferred. The adoption of the " pay-as-we-earn " plan is expected to increase the revenues from this source, although it may at first seem strange that a rearrangement involving the cancellation of some tax liabilities without any compensating increase in the tax rates could result in greater tax revenues. The explanation given is that the cancelled liabilities are compensated for by bringing forward the taxes to be paid in all future years. The compulsory savings provisions introduced in 1942, featuring a post-war refundable portion of the tax, have been continued and clarified. A number of changes, intended to strengthen the law and to secure a more equable application of its provisions, especially with regard to members of the armed forces, have been made. Other changes give recognition, by way of alleviation from taxation, of certain expenditures in searching for oil, natural gas, metalliferous and other strategic minerals.

C. 21 approves the Convention and Protocol between Canada and the United States of America signed at Washington on March 4, 1942, for the avoidance of double taxation and prevention of evasion in the case of income taxes. The Convention and protocol had been approved by a resolution of the House of Commons on June 8, 1942, which procedure appears to have been considered adequate when a previous Convention was passed in 1936. The view of the law officers, however, was that the convention should receive the formal approval and ratification of Parliament.

Unemployment Insurance.—A number of amendments are made to The Unemployment Insurance Act, 1940, by c. 31. The principal change is that extending the provisions of the Act to workers whose remuneration does not exceed $2,400 a year, thereby raising the former ceiling of $2,000 to that amount, following a recommendation made by the unemployment insurance advisory committee as a result of its investigations and inquiries into the matter. A number of other changes have been made to facilitate and simplify the operation of the Act. A new sub-section gives the Commission authority to make regulations permitting the insurance officer to disallow claims on some grounds where he might not formerly disallow, subject, however, to the claimant's right to appeal to a court of referees. A further amendment gives the Commission the power to require employers to keep the books, records and accounts necessary for purposes of inspection.

Munitions—War.—C. 8 amends The Department of Munitions and Supply Act to conform with the needs and practice of the Department as revealed by three years of intensive operation, and to enable the Department to continue and complete the job of supplying Canada's share of the tools. The amendments enlarge and clarify a number of powers previously conferred and confirm others granted by Order in Council, the general objective being to give the Department a closer and tighter control of the various aspects of munitions production and their related accounting processes. Its powers have been extended in the

matter of costs, on a cost plus a fair and reasonable profit basis, but its decisions may be appealed to the Exchequer Court by any person affected. The Department may also, when it deems it expedient, appoint investigators to inquire into any matter relating to any munitions contract or to any defence project. A further clause ensures that the title to machinery, equipment and buildings purchased or constructed with public funds shall vest in the Crown free of all third party claims, liens or encumbrances. S. 117 of the Act, which limited its life to three years subject to the extension of any of its provisions by Order in Council, has been repealed, and it is left to Parliament to do away with the Act when it becomes apparent that the need for it no longer exists. The new section provides, however, that on the termination before completion of munitions contracts entered into with the Minister or any Crown company the contractors will not be entitled to damages for loss of anticipated profits.

C. 17 is an Act for granting to His Majesty aid for the purpose of making available Canadian war supplies to the United Nations. It establishes a Canadian Mutual Aid Board, consisting of the Ministers of Munitions and Supply, National Defence, Finance, Agriculture and Justice, acting as a committee of the King's Privy Council for Canada. As its name indicates, the Board is empowered to make available to any of the United Nations war supplies to be used in the joint and effective prosecution of the war. The terms and conditions under which the supplies are to be made available and the procedure to be followed by the Board in carrying out its duties will be those approved by the Governor in Council. The Act authorizes the payment out of the Consolidated Revenue Fund of a sum of $1,000,000,000 for these purposes.

Japanese Treaty.—C. 28 repeals The Japanese Treaty Act of 1913. The treaty of commerce and navigation signed by the United Kingdom and Japan on April 3, 1911, was adhered to by Canada on May 1, 1913. It was considered to have terminated by the commencement of hostilities on December 7, 1941, but as the Act made no provision for the automatic repeal of the treaty it was found expedient to enact a repealing statute.

2. ALBERTA.*

FORTY Acts were passed at the Third Session of the Ninth Legislature.

Finance.—The first three Acts made provision for the finances of the Province.

Workmen's Compensation.—C. 4 repeals the Workmen's Compensation Act, Revised Statutes of Alberta, 1942, c. 284, and enacts a new Act in substitution for it. The changes made, although numerous, are in large part of a merely minor nature, consisting of revisions and extensions of existing provisions making for a greater clarity and more effective application of them and having to do more particularly with matters of administration. This note deals only with changes of major importance. The definition of "accident" in s. 2 (*a*) is extended to include "disablement arising out of and in the course of the employment." The proviso to subs. (4) of s. 19 authorizes payment of compensation for the first three days of disability when the workman is disabled for more than 14 days. Formerly it was payable only when the disability exceeded 30 days.

Subsection (5) of s. 19 is changed by reason of conditions caused by the war. It provides that the period of limitation for making a claim shall not run against dependants residing within enemy alien territory or territory occupied by the enemy—this at the request of the Secretary of State for the purpose of bringing it in line with the general provision in the Regulations Respecting Trading with the Enemy. The subsection also provides that pensions to such dependants, although dating back to the date of the accident, will be payable

* Based on the Synopsis prepared by W. S. Gray, K.C., and published by Order of the Legislative Assembly.

to the dependant only from the cessation of the war and the consequent undistributed surplus will be applied and disbursed in further benefits to widow dependants in necessitous circumstances because of illness of themselves or dependent children.

Subsection (4) of s. 25 now limits the subrogation in favour of the Board of the rights of a workman against a third party to his rights in respect of a personal injury suffered by him thereby leaving to the workman his rights in respect of such property damages as he may have suffered.

In s. 25 the provisions as to notice of accident are changed. Formerly notice had to be given to the employer on the date of the accident if able to do so and in any event before he voluntarily left the employment in which he was injured. By the amendment it is provided that notice shall be given as soon as practicable and the Board may award compensation in any event if in its opinion "the claim is a just one and ought to be allowed."

S. 27 now provides a right of appeal from an award of the Board to "a specialist in the particular class of injury or ailment in respect of which the workman is claiming compensation." Two specialists are to be nominated by the Board after consultation with the workman's physician, and the workman selects one of these two to act. The former provision relating to a panel of medical practitioners has been struck out.

Subsection (4) of s. 31 provides that, where a lump sum payment has been accepted by a workman in full of his claim, he shall not be entitled to any further payment in respect of the "degree of disability" in respect of which it was paid. Formerly it read "for or in respect of the accident or injury arising thereout or consequent thereupon." This would allow for the reopening of a claim where there is a change in the degree of disability.

S. 33 changes the scale of compensation payable as follows:

(1) The pension payable to widows or invalid widowers entitled to compensation, has been raised from $35.00 to $40.00 a month;

(2) A provision for the payment to widows or foster mothers, as the case may be, of an additional sum not exceeding $100.00 "for such additional pre-burial expenses that may be reasonably necessary consequent upon the death of the workman";

(3) To children dependants under the age of eighteen years the pension is increased to $12.00 to all dependent children. Formerly it was $12.00 for the eldest child and $10.00, $9.00 and $8.00 for the others;

(4) For dependants other than widows or invalid widowers or children, the amount payable has been raised from $30.00 to $35.00 and in the whole from $65.00 to $70.00 a month;

It is further provided by s. 33 as follows:

(a) That where reduced pensions are payable to aliens according to the standard of living obtaining in the countries in which they reside, the capital cost of the pension is to be on the same standard as pensions awarded to Canadian dependants and the undistributed surplus accruing therefrom is to be placed in a reserve and paid to widow dependants in necessitous circumstances because of illness to themselves or their dependent children up to an additional $15.00 a month;

(b) That in cases where a fatally injured workman leaves no dependants an amount will be fixed by the Board equivalent to what would have been payable had the workman left a widow and the amount so accruing to be paid into a reserve fund and disbursed by the Board to injured workmen whose disability is enhanced because of similar or other injuries previously suffered.

There are important changes in s. 44. The cost of medical aid under the existing Act is charged to workmen and is provided by deductions from their wages or salaries by the employer. Under this Act the cost of medical aid is removed entirely from the workman and is provided by the Board out of funds furnished

by assessment against employers. This has been accomplished by deleting from the existing Act subsections (2), (3) and (4) of s. 44, which subsections provided for contributions from workmen for the maintenance of the Medical Aid Fund. The result of the change, therefore, is that workmen no longer will be charged with the cost of medical aid in lieu of which it now becomes a charge against industry. Provision is made for reimbursement to employers who have an approved arrangement for furnishing medical aid to their employees.

By an extension of subsection (5) of the same section, the Board is empowered to establish—

(a) hospitals where in its opinion it may be considered necessary, and (b) therapeutic clinics for the rehabilitation of injured workmen.

By an introduction of s. 60 (1) to (8) the Board is empowered to require employers to furnish security for assessments if and when the Board should deem it necessary.

Labour Welfare.—C. 5 enables the Board of Industrial Relations to make investigations relating to the welfare and conditions of labour in any particular industry or in industries generally, and to make orders to ensure proper working conditions for employees, male and female, engaged in such industries.

S. 7 makes provision for chairs or seats for female employees in industries where work may be conveniently done by women while seated.

S. 8 provides (a) that where an inspector so directs in writing, an employer shall not allow any person to take meals in a room where any manufacturing process is carried on; (b) that after being directed by an inspector so to do, an employer shall provide a suitable room in the factory or shop as a dining-room; (c) that no food shall be taken into any room where certain specified conditions exist.

Several sections are incorporated from the Factories Acts which are repealed to that extent.

Education.—The Operation of Schools (War) Act C. 6 makes certain temporary changes in the school terms as a result of which the school vacation began on July 1 in 1943 and on August 1 in subsequent years, and extend into October so as to enable teachers and students to assist in harvesting and other seasonal occupations. After 1943, the schools will remain open during the month of July. Certain holidays are eliminated so as to enable the schools to make up the time lost through the extended summer vacation. The Act may be repealed at any time by proclamation.

Debtors' Assistance.—C. 7 provides for a Debtors' Assistance Board to advise and assist debtors in the adjustment and settlement of their debts with creditors, to arrange meetings between debtors and creditors, and to advise and assist debtors in the preparation of any plan or scheme of settlement before any Dominion Board or Court which may have been or may hereafter be set up for the adjustment and settlement of debts.

The Board is given power to make inquiries with regard to the property of debtors and to examine the debtor or other persons on oath who appear to have knowledge of the affairs of the debtor. It is given the power conferred upon a commissioner pursuant to the Public Inquiries Act.

The expenditures incurred under the Act are payable out of the appropriation voted for the purpose of The Debt Adjustment Act.

Post-War Reconstruction.—C. 8 provides for the setting up of a Post-War Reconstruction Committee to be named by the Legislature.

S. 5 of the Act empowers the Committee to appoint a secretary-treasurer, technicians and other employees to assist the Committee in carrying out its duties.

The powers, duties and functions of the Committee are set out in s. 8 of the Act and generally enable the Committee to obtain information and formulate plans for economic reconstruction measures to be taken at the conclusion of hostilities in the present world conflict. The Committee is given wide powers to

make a complete survey of the economic conditions of the Province and to formulate plans for taking care of unemployment which may ensue in the transition period from war time to peace time economy.

S. 9 of the Act enables the Committee to make such other investigations and inquiries for the purpose of carrying out the scheme of the Act as the Lieutenant Governor in Council may direct.

S. 10 of the Act requires the Committee to prepare and submit a report to the Lieutenant Governor in Council and also provides that the report shall be submitted to the Legislative Assembly at the session held next after the year to which the report relates.

S. 11 of the Act gives the Committee or a member appointed, power to make an inquiry under The Public Inquiries Act.

C. 9 creates the fund known as the Post-war Reconstruction Fund, which will consist of the $1,000,000 appropriated by The Special Appropriation Act, 1943, and any other sums appropriated by the Legislature from time to time, together with dividends on investments, interest, etc.

The fund with its accumulations is to be applied to—

(1) The undertaking of public works such as buildings, roads and land settlement projects which will give employment to and assist in the rehabilitation of persons serving in His Majesty's forces;

(2) The granting of assistance by way of subsidy or loan to commercial or industrial projects with the same object in view as in (1).

Change of Time.—C. 10 validates an Order in Council passed on December 8th last providing for the observation of Pacific Daylight Saving Time instead of Mountain Daylight Saving Time in which is usually called the Peace River area.

Setting of Poison.—C. 11 repeals The Laying of Poison Act, being c. 200 of the Revised Statutes of Alberta, 1922, and incorporates under s. 3 of this Act the provisions of s. 5 of The Laying of Poison Act.

S. 4 provides for the distribution of poison for the purpose of exterminating crows and magpies under the safeguards set up under the Act.

S. 5 provides a prohibition against any person laying poison in the Province except as set out in the Act.

Superannuation.—S. 1, c. 16 amends subs. (4) of s. 9 to ensure that no employee whose services are retained or who is re-engaged shall be entitled to both superannuation and salary at the same time.

S. 2 of the Act amends s. 10 to provide that the employee must select the type of annuity he desires within 60 days of his reaching the age of retirement, otherwise the Board may make the selection for him.

S. 3 of the Act makes the same amendment with respect to a non-contributory annuity.

S. 5 of the Act enables an employee who has resigned or been dismissed, and who within a period of three years thereafter is re-employed, to be reinstated in the Superannuation Fund by repaying the amount of moneys withdrawn by him from the Fund and may be placed in the same position as he was at the time of his resignation or dismissal.

The new s. 28 added by s. 6 of the Act brings permanent employees of the University, except members of the academic staff, under the Act. Provision is made for repayment of the University contributions to the University where an employee retires before becoming entitled to an annuity. These refunds are to be held in trust for payment of non-contributory annuities.

The new s. 29 added by s. 6 of the Act brings permanent employees of the University Hospital under the Act under similar conditions.

Provincial Lands.—S. 1 of c. 17 amends s. 16 to provide that the lessee of agricultural lands may comply with requirements as to residence if he resides within three miles of his leased land on a farm occupied by the wife or husband

of the lessee as the case may be, or held as owner-purchaser under agreement for sale, lessee, or homestead entrant.

The addition of subsection (5) to s. 44 by s. 2 of the Act brings all leases of mineral rights granted by the Dominion Government under the operation of petroleum and natural gas regulations as to drilling requirements now in existence in the Province of Alberta, or which may be brought into effect, so that these leases will be regulated in the same manner as leases now granted under the provisions of The Provincial Lands Act.

The new s. 44 (*b*) deals with cases of mines which are abandoned or where work has ceased, and prohibits the removal of machinery, etc., without the written authority of the Minister and imposes penalties for the breach of the section. The Minister has to be satisfied that the abandoned mine is left in a safe condition.

The amendment to s. 108 clarifies the right of the Province to levy against goods and chattels regardless as to whether they are held under a mortgage, lien or other incumbrance, where they are found on lands upon which there are owing rentals and royalties to the Provincial Government, and also makes clear the right of the Province to distrain for moneys owing to the Crown under an agreement for sale of land.

Water Resources.—The amendment by c. 18 to the definition of "undertaking" extends it to the transmission and utilization of water, instead of being confined to water power.

Subsection (1) of s. 43 as it now stands authorizes the Lieutenant Governor in Council to take over and operate irrigation works, but no machinery is provided for operating the works or collecting rates. The object of the new subsection (1) is to provide this machinery by giving the Lieutenant Governor in Council all the powers of a Board of Trustees.

The new s. 49 extends the lien for water rates and charges to cover all farm produce. The former section limited the lien to grain crops, hay crops and root crops. The new section is the same as the corresponding section in The Irrigation Districts Act.

S. 67 authorizes agreements between the Province and the Dominion and other Provinces, for the establishment of a Board with jurisdiction to regulate and control the use of inter-provincial boundary waters. The amendment cuts down the power of the Board from regulating, etc., to investigating and advising.

Subsection (5) added to s. 69 authorizes the Minister to enter into agreements with the Dominion Government for the construction by the Dominion of conservation projects, under The Prairie Farm Rehabilitation Act. The Minister is also given power to expropriate, when necessary, right-of-way for such projects, and for the operation and control of such projects by or on behalf of the Province.

Noxious Weeds.—The amendment by c. 19 to The Noxious Weeds Act widens the definition of "screenings" to include material removed from forage crop seeds as well as cereal seeds, and is to enable a more effective control of weed seeds under the Act.

Drainage Districts.—The corresponding former section of this Act provided that if a district had no debenture indebtedness, one-third of the landowners might petition for dissolution of the district, and, if three-fifths of the votes cast at an election on the question were in favour of dissolution, the Minister was required to dissolve the district. It is felt by the Drainage Council that such a dissolution might lead to serious results and there would be no body which would be responsible for the upkeep of ditches, bridges, culverts, etc., or for destruction of weeds. The object of the substituted section in c. 20 is to make the granting of a vote conditional on the approval of the Drainage Council, the granting of which approval will be subject to the Council being

satisfied that the works of the district will be maintained by a municipality or other body becoming responsible therefor, or be dismantled. A majority of the votes cast is required before the petition can be dealt with by the Minister.

Evidence.—C. 21 amends The Alberta Evidence Act by introducing a new s. 37 (*a*). This section provides that a print from a photographic film of entries in books, documents of government departments, banks and other corporations mentioned shall be admissible in evidence when it is shown that the film was taken in order to keep a permanent record while the document was still in the custody of the corporation or department, and that the original had been subsequently destroyed or delivered to a customer. Provision is made for proof of these things either orally or by affidavit.

This enactment would enable the corporations mentioned in the section and government departments to obtain badly needed space now occupied by documents which have accumulated over long periods of years. The Department of Lands and Mines felt the need of such legislation some time ago, and legislation similar to this amendment was passed in 1941 and is now s. 10 of The Department of Lands and Mines Act, c. 11, R.S.A., 1942.

The amendment, limited however in its application to banks and government departments, was adopted by the Conference of Commissioners on Uniformity of Legislation in 1941, and has since been passed by seven of the provinces.

The amendment made by this Act extends the operation of the section to certain corporations other than banks, and an amendment to the Canada Evidence Act in the same terms was passed by Parliament in 1942.

District Courts.—S. 27 of The District Courts Act provides that parties to an action may agree that the Court shall have jurisdiction to try a claim otherwise beyond the jurisdiction of the Court. No similar provision is made with regard to a counter-claim. The new section in c. 22 inserted by this amendment is to provide that the parties may agree to the jurisdiction of the Court in the cases both of actions and of counter-claims.

Education.—S. 1 of c. 24 provides that the board may designate the school or room in which each of its teachers shall teach, and if expedient, gives the board power to transfer a teacher from one school or room to another.

S. 3 has the effect of raising the minimum salary to be paid a teacher from $840.00 per annum to $900.00 per annum.

S. 15 of the Act amends s.290, which provides that a divisional Board may determine that in any hamlet in the division its estimated expenditure is above the average expenditure by reason of the density of population. In such a case the Board may by resolution determine the amount of the excess for the year and make an additional requisition therefor. The effect of the amendment is to authorize the Board to fix a minimum tax not exceeding ten dollars to be paid by persons assessed upon the assessment roll with respect to land on which a dwelling-house is situated.

S. 40 of the School Taxation Act provided that a judgment against the school district could only be enforced by execution and that the Rules of Court relating to garnishee proceedings should not apply to school districts, the object of these provisions being to prevent a school district being hampered in its operations by its bank account being attached, leaving no funds with which to pay the salary of the teacher and other expenses. When these provisions were passed, school divisions were overlooked, and the object of the amendment in c. 25 is to apply these provisions to school divisions, it having been recently held in the Courts that the bank account of a school division was subject to garnishment.

Insurance.—S. 1 of the Insurance Act is to protect persons having more than one policy of insurance from terms of a policy which provides that it shall be excess to the other policy, that is, not contributory for a rateable share until

the other policy is paid out. Such provisions in a policy are invalidated by the amendment in c. 28 unless consented to by the other insurer. This amendment has been approved by the conference of Provincial Superintendents of Insurance.

As Parliament has provided for war damage in The War Risk Insurance Act, c. 36, Statutes of 1942 (Canada), it is thought advisable to change the form of exception as it appears in the Insurance Act. The insurance companies co-operating with the Dominion Government in war risk insurance have agreed not to write any war risk insurance except under that Act. This amendment has the approval of the Superintendents of Insurance of Ontario and British Columbia and other provinces and may be repealed by proclamation.

S. 3 of the Act adds a new statutory condition applicable to automobile insurance policies, which exempts the insurer from liability for the risks mentioned, unless the policy or an endorsement thereon expressly provides otherwise. This amendment has already been passed by Ontario, British Columbia, Saskatchewan, Manitoba, and New Brunswick, and Quebec already has such an exclusion in its policies.

Hail Insurance.—S. 1 of c. 29 incorporates provisions authorizing the Hail Insurance Board to establish a superannuation fund by setting up a plan to be approved by the Lieutenant Governor in Council. Subsection (5) authorizes the Board to set aside before the inception of the plan, a sum not in excess of 8 per cent. of the aggregate of salaries of officers and employees as the nucleus of the superannuation fund and also authorizes the Board to make an agreement with any officer as to a pension or retiring allowance.

Land Sales Prohibition.—C. 30 amends The Land Sales Prohibition Act which prohibits the sale of land to enemy aliens and Hutterites. The purpose of the amendment is to extend this prohibition to leases and agreements for leases. The amendment does not operate to prevent renewal from year to year of any lease granted prior to March 31, 1942, nor to a similar renewal of any lease heretofore granted by any Department of the Government.

Mechanics' Lien.—S. 5 of c. 31 strikes out s. 11 and substitutes three other sections which deal with the priorities as between liens and mortgages and with the disposition of the proceeds after sale of the land, the aim being to make a fair distribution as between a mortgagee and a lienholder where there is not sufficient proceeds to satisfy both claims. The value of the improvements to which the lien attaches and all subsequent improvements are taken together in ascertaining the value of the improvements for the purpose of distributing the proceeds. Provision is made for either the mortgagee or lienholder to purchase the premises at a price not less than the value of the land and improvements fixed by the court. The provisions of these sections are made to apply to all liens arising before as well as after the amendments are passed and to all proceedings with respect to same, except where they have been concluded by sale or an order of the court vesting the lands in the mortgagee.

S. 11 of the Act incorporates in the Act a new s. 38 (*a*), which empowers a judge to order the removal from the land and sale of a building or structure to satisfy a lien under the Act when the judge thinks that course a proper one having regard to the value of the building and the amount owing on the lien. In such case all the proceeds of the sale will be applied on the lien up to the amount of the claim.

S. 12 of the Act incorporates new provisions relating only to liens in connection with oil and gas wells. The lien is extended to cover oil and gas in place or severed and makes all persons having an interest in the oil and gas come within the definition of "owner" in the Act. Owners of the fee simple are protected to the extent of 20 per cent. royalty. S. 45 enacted by s. 12 of the Act makes it clear that the lien applies to the interests over the 20 per cent. of the owner of the fee simple.

Water, Gas, Electric and Telephone Companies.—S. 8 of c. 32 as it now stands

prohibits the construction of mains and pipes for the supply of gas, water or electricity within six feet of existing mains, pipes, etc., except with the consent of the company maintaining them, and payment of compensation to be agreed upon, but does not prohibit the construction of sewers in the same way. The amendment extends the provisions of the section to apply to sewers and is intended as a safety measure, particularly where gas mains are constructed in the same street. If the corporations interested cannot agree on terms or on the compensation the questions may be referred to the Board of Public Utility Commissioners whose decision shall be final.

Old Age Pensions.—The Act to be amended by c. 33 provided for payment of an additional allowance to old age pensioners and blind pensioners, but the payment was not extended to Alberta pensioners who removed to other provinces. The object of s. 1 of the Act is to remove this restriction with respect to such pensioners who remove to a province which pays similar supplementary allowance to Alberta pensioners resident in such province. The payment by Alberta is to be the same as that paid by the other province, but not to exceed $5 per month.

S. 2 authorizes the making of agreements with other provinces to accomplish the above purpose, and s. 3 validates the agreement set out in the Schedule already made with the Province of British Columbia.

Vehicles and Highway Traffic.—The new subsection to s. 20, enacted by s. 1 of c. 34, authorizes the Minister to grant temporary permits to persons between the ages of 16 and 18 years to operate a motor vehicle as a chauffeur. The subsection, however, does not authorize the granting of permits to such persons to drive a vehicle used for the purpose of transporting passengers for hire.

Industrial Conciliation and Arbitration.—S. 3 of c. 36 amends subs. (1) of s. 7 to prohibit any person from seeking to compel, by intimidation or threats, an employee from engaging in any activities of a union negotiating with committees making complaints, or giving evidence at an inquiry.

Engineering Profession.—S. 1 of c. 28 amends s. 5 so that it will not be necessary to have each branch of engineering equally represented on the Council of the Association of Professional Engineers. This change is advisable because there are very few members in some of the branches and the majority of the members are in the civil engineering branch.

S. 2 of the Act substitutes a new section for s. 7 to permit the Council to register persons who are not British subjects but are otherwise qualified under the provisions of the Act and who have been granted permanent landing under the immigration regulations, and intend to remain in Canada.

S. 3 of the Act provides a new method of electing councillors to permit the council to be elected from the membership at large instead of from each branch of the association.

Mothers' Allowance.—The amendment to s. 4 made by s. 1 of c. 39 authorizes the payment of allowance with respect to any children under 16. The provision formerly applied to boys under 15 and girls under 16.

3. BRITISH COLUMBIA

[*Contributed by* J. P. Hogg, K.C., *Legislative Counsel.*]

The Legislative Assembly at the session held in 1943, passed 72 Public Acts and 2 Private Acts.

Trustees.—Unless a trustee's accounts are consented to by all beneficiaries or unless the Court otherwise orders, the trustee shall within two years after taking office, apply to the Court for an order to pass his first accounts and shall pass his subsequent accounts when ordered by the Court.

The amendment in c. 66 applies to a trustee appointed before the commencement of the amending Act unless he has already passed his accounts.

A trustee must, if required by any person beneficially interested, pass his accounts annually within one month from the anniversary of his appointment, subject to Court order.

Industrial Conciliation and Arbitration.—"Collective bargaining," "trade union," and "member of a trade union," defined a "trade union" means a national or international organization of employees or a local branch thereof, and therefore a Provincial organization is excluded.

The amendments in c. 28, although important, do not disturb the fundamental principle of the original Act. That Act was based upon the encouragement of bargaining as between employers and employees, conciliation where bargaining failed, and arbitration where conciliation failed. During the period of bargaining, conciliation, and arbitration a strike or lock-out is illegal. On the other hand, the award of an arbitration board is not enforceable.

Provision has been made, for the purpose of collective bargaining, that where a majority of the employees are members of one trade union, such trade union shall have the exclusive right to conduct the bargaining on behalf of all employees including those who are not members of the union. There is provision for separate collective bargaining on behalf of employees who are separately organized into a craft union. Machinery is provided to enable the Minister of Labour to satisfy himself that bargaining representatives have been properly elected or that a trade union in fact represents a majority of the employees.

It is unlawful for an employer to dominate the formation or administration of an organization of employees or to contribute support to it.

Coroners.—By c. 8 women may serve on a Coroner's jury. An inquest may be held where the body of the deceased cannot be recovered. Where any person is charged with a criminal offence arising out of a death, the Attorney-General may direct that no inquest shall be held or continued. Where a jury retires no person shall communicate with them without the leave of the Coroner. A person whose interests may be affected may appear by counsel, tender evidence, and cross-examine.

Bills of Sale.—In the case of a chattel mortgage made by a company, when a discharge is filed in the County Court the Registrar by c. 43 shall send notice to the Registrar of Companies so that the discharge may appear also on the latter's records.

Court of Appeal.—Where a Judge who heard argument dies before judgment without having handed in his opinion, or by reason of sickness is incapacitated from giving his opinion, the remaining Judges by c. 10 shall constitute the Court for the purpose of delivering judgment.

County Courts.—C. 12 requires a Judge, where there is no official stenographer, to take full notes of the verbal testimony and to furnish a copy of the notes; and the copy may be used in case of appeal.

Magistrates' Jurisdiction.—The Lieutenant-Governor in Council by c. 38 may confer exclusive original jurisdiction upon certain magistrates to conform with the amendments to the "Juvenile Courts Act," which provide that where exclusive jurisdiction in certain matters has been conferred upon a Judge or Judges of the Juvenile Court, such Judge or Judges shall constitute and be the Judge or Judges of a Court to be known as the "Family Court"; and the Family Court is constituted a court of record.

This is the adoption of an institution that is said to have had great success in Toronto.

Jury.—By c. 30 a juryman now receives $4.00 a day instead of $3.00 a day.

Insurance.—The extent of the liability of an insurance company in the case of

damage caused by war is dealt with by c. 29, which defines what is known as " excess insurance."

Statutory Holidays.—C. 27 gives the Lieutenant-Governor in Council power to alter statutory holidays within the Province.

Lunacy.—Where a person is released from a mental institution on probation the Attorney-General by c. 35 continues in control of his estate during probation.

Indian Reserves Mineral Resources.—C. 40 ratifies an agreement between the Province and the Dominion whereby it is established that control of minerals in Indian Reserves is vested in the Province.

Purchasing Commission.—C. 54 provides for the appointment of a commission directly responsible to the Legislative Assembly to purchase all supplies required by the Government.

4. MANITOBA

[*Contributed by* G. S. Rutherford, Esq.]

Animal Husbandry.—C. 1 is a short amendment which may be of interest to dog lovers. Previously s. 31 of the Act read as follows:

> " Any person may kill a dog which he finds straying between sunset and sunrise on any farm whereon sheep are kept."

The amendment strikes out the words " between sunset and sunrise " so that as it now stands any person may kill a dog which he finds straying on any farm where sheep are kept.

Mechanics' Lien.—There was no provision for the registration of mechanics' liens and for a *lis pendens* judgment, order, etc., in a mechanics' lien action in cases where no grant from the Crown had been issued. Since the Land Titles Office will not take registrations in these cases, this created an awkward situation in the case of mining claims, where mining machinery might be furnished or work done. By c. 31 these claims can now be registered in the office of the recorder of the mining district in which the land is situated.

Crown Lands.—The department found that there were certain old claims registered against Crown lands, most if not all of these having been registered prior to the taking over of the natural resources by the Province from the Dominion. These were claims upon which no action had been, or was likely to be, taken. They remained registered in the Land Titles Office and created an apparent cloud on the title when the purchaser from the Province came to register his conveyance from the Crown. Such old claims might have a nuisance value and while they could not be enforced someone might demand payment for giving a release in respect to the same. C.8 provides an expeditious method of getting rid of claims of this kind.

Forests.—C. 18 covers principally the case of persons having summer resort locations in forest reserves. For these locations permit fees or rentals are payable. Where these permit fees or rentals are not paid an expeditious procedure similar to tax sale procedure is now provided whereby the fees in default must be paid or else the buildings and other improvements on the parcel of land are forfeited to the Crown.

Fish Dealers.—The Fish Dealers Act was first enacted at the last previous session and by its terms it was made not to apply to fish caught by angling. This has caused difficulty in enforcement, since cases have arisen where persons prosecuted contended that the fish was taken by angling and that therefore the Act did not apply to them. Accordingly by c. 17 the Act is now made to apply even to fish taken by angling. Another amendment to the Act provides that fish caught by angling cannot in future be bought and sold.

Trustee.—C. 50 provides that a claim against the estate of a deceased person shall not become statute barred where the claimant has given notice to the personal representative of the deceased or to the registrar of the surrogate court

within the time fixed in The Limitation of Actions Act, 1931. It also provides for the case where the creditor dies shortly before his claim against a debtor is due to become statute barred. In such a case the personal representative of the deceased creditor is given at least three months after the death of the creditor in which to become familiar with the estate and take steps to see that the claim of the creditor does not become statute barred. These provisions follow on certain legislation in the Ontario Surrogate Courts Act.

Evidence.—By what appears to have been an oversight, The Evidence Act previously provided that affidavits for use in the province could be taken by postmasters of post offices anywhere in Canada. C. 11 restricts this privilege to the postmasters of post offices in Manitoba.

Public Health.—C. 28 gives the Crown a summary method of procedure for recovering moneys owing to it for expenses in connection with the custody, apprehension, removal, transportation, care, maintenance, relief, support, medical or other services, hospitalization, or burial of a person. This summary procedure is similar to that given under The Hospital Aid Act to hospitals.

Game and Fisheries.—Trappers and prospectors are to be allowed to fish or hunt for the purposes of obtaining their own food without getting a licence.

Another change made by c. 19 is with respect to the date up to which possession of game birds which have been killed may be retained. The date is extended from January 2 to January 15. On account of the Christmas and New Year season it was considered that the time of possession should be extended.

Certain new provisions are added to provide for the payment of royalties on the taking or killing of fur-bearing animals and providing for the method of collection of the same, etc.

Fishing guides are required hereafter to have licences.

The daily time during which hunting may be carried on in the open season has been changed in one respect. It used to be that for most of the week hunting could only be done between sunrise and sunset and on Saturday hunters could go on until one hour after sunset and similarly they could start on Monday one hour before sunrise. This is now changed and Saturday and Monday are made the same as every other day; the time is between sunrise and sunset.

Municipalities.—The residence rules in respect of minors are changed in some respects. Provisions are made for making the tax roll and assessment roll open to inspection and for alternative methods of publication of auditors' annual reports.

A provision which has caused some interest is the new s. 947A added by c. 53, which provides that in addition to any other power granted by the Act, a municipality, in lieu of imposing a business tax or personal property tax on persons carrying on business within the municipality, may pass by-laws for imposing on persons carrying on business a fee or tax not exceeding fifty dollars in respect of each business carried on.

Child Welfare.—Rather important amendments in The Child Welfare Act by c. 3. In the first place the members of the Child Welfare Board are given a definite term of office. i.e., five years. Amendments are also made with respect to neglected children whereby the child, if committed by the magistrate to custody, shall be committed to the custody of the Children's Aid Society of the district if there is such a society in that district, and if there is not, then to the Director of Child Welfare. Provision is also made for returning a child to another province if its residence is in that other province.

Hereafter where a child is committed to the custody of the director or a society, the director or the society is to be the guardian of the *person* of the child. Other provisions in the Act provide for the director or a society being appointed guardian of the *estate* in certain cases.

Another important change is with regard to orders for permanent custody. Although these were called orders for permanent custody, it was permissible previously for the magistrate to make changes in the order. Hereafter such orders for permanent custody shall remain unchanged until the child reaches twenty-one years of age unless the Director of Child Welfare gives his consent to the change.

The amendments also provide that when committing a child to custody it is not imperative in every case, as it was formerly, for the magistrate to make a maintenance order. In some cases it was impossible to make a maintenance order because the child had not an established residence in Manitoba. Provisions with respect of the sum payable by the putative father in filiation orders is changed. Where the judge has ordered payment of a fixed cash sum it has generally been understood that this was to be complete settlement for the liability of the father. However, the Act made use of the words " pro tanto." It has been argued in some cases that this meant that after the cash sum had been used up the father was still liable for any monthly alternative amount mentioned by the judge in the order. The intention of the amendment is to make it clear that if a cash settlement is included by the judge in the order, then this cash settlement is the final settlement.

A change is made in the adoption procedure. Formerly it was necessary for the mother of a child to sign an adoption agreement in blank inasmuch as it was not desired that she should know the identity of the adopting parents. This was not considered to be really good practice and under the new amendment the mother merely signs a consent and the adopting parents also sign a separate document to be called an application. Once the director gives his approval these separate documents are to have the same effect as a contract executed under the previous procedure.

The new sub-s. (3A) and (3B) added to s. 95 of the Act provides that where a child is or has been in the custody of, and has been cared for, and maintained by, any person as his own child under a *de facto* adoption for a period of not less than seven years a judge, on application and on recommendation of the Director of Child Welfare, and if satisfied that it is in the best interests of the child to do so, may make a decree of absolute adoption without requiring the consent of the parent or guardian. It is also provided that such a decree of absolute adoption may be made after a child has reached the age of twenty-one years. This latter provision is important.

A change was also made with respect to the time within which a complaint may be made or an information laid against any person charging him of being guilty of an act or omission producing, promoting, or contributing to a child being or becoming a neglected child. Previously by virtue of the provisions of The Manitoba Summary Convictions Act and the Criminal Code such a charge must be laid within six months of the commission of the offence. This time is now extended to twelve months from the time when the matter of the complaint or information arose.

Companies.—There were two Acts amending The Companies Act. C. 6 dealt largely with co-operative corporations. These were formerly incorporated under The Co-operative Associations Act and were not incorporated by letters patent. These companies are now to be deemed to have been incorporated in the same manner as if they had been incorporated by letters patent. Furthermore, the responsibility for the incorporation, etc., of credit union societies is now transferred from the Provincial Secretary to the Minister of Agriculture and Immigration.

C. 7 amending The Companies Act is collateral to certain amendments to The Manitoba Insurance Act and the intention is to remove any possible conflict with The Insurance Act. The term " friendly society " is dropped in The Companies Act and the more accurate term " benevolent society " is

substituted. There are also amendments designed to facilitate in the interests of the public close co-operation between the department administering The Companies Act and the Superintendent of Insurance so that companies may not be newly incorporated or authorized to carry on insurance business in the province without first obtaining the approval of the Superintendent of Insurance.

Another amendment prohibits in future the incorporation, etc., of companies which instead of a sum fixed in a policy pay to persons who insure with them merely the proceeds of a levy on other members, or else an indeterminate sum fixed at the discretion of the management.

Still another change prohibits life insurance companies from being incorporated by letters patent under The Companies Act, leaving them to secure either a special Act of incorporation from the Legislature or else a Dominion charter.

Insurance.—There were two bills introduced amending The Insurance Act. The second of these, c. 24, is the one which ties in with the amendments already referred to which were made to The Companies Act. These amendments more clearly define the various types of societies which do an insurance business and permit closer co-operation between the Superintendent of Insurance and the department administering The Companies Act. Provision is made to exempt *friendly societies* as now defined from the provisions of The Manitoba Insurance Act. These are societies which pay sickness and accident disability benefits not exceeding five dollars a week or funeral benefits not exceeding one hundred and fifty dollars. The maximum benefits payable by mutual benefit societies are to be reduced from twelve dollars per week to ten dollars per week for sick benefits, etc., and from four hundred dollars to three hundred dollars for funeral benefits.

Another change is that hereafter a company applying for licence to transact life insurance in the province, if it has not heretofore been licensed, will under the amendments require to be registered under one or other of the Dominion Acts, viz., The Canadian and British Insurance Companies Act, 1932, or The Foreign Insurance Companies Act, 1932, thus requiring inspection by the Inspection Branch of the Federal Department.

Provision is also made for the appointment of a supervisor over insurance companies in cases where the superintendent is satisfied that the company is not complying with the provisions of this Act or with the by-laws which he has already approved or is for any other reason not entitled to have its licence renewed. The supervisor is to have control over the business of the company subject to the direction of the minister, who may remove him when he is satisfied that the company has put its affairs in order. As a protection to the insurer it is also provided that a judge of the Court of King's Bench, on application by the insurer, may make an order removing the supervisor if he is satisfied that it is in the public interest to do so.

The other Act, c. 23, amending The Insurance Act is to take care of certain changes recommended by the Association of the Superintendents of Insurance, and is similar to the Alberta measure (*supra*, p. 29).

Another change deals with the matter of multiple-cover policies and policies known as Personal Property Floater. Cases have arisen where the insured has been put to considerable inconvenience and delay has been caused in the payment of losses due to the fact that the insurer issuing the multiple-cover policy form has taken the stand that the entire coverage was excess coverage to any specific policy already in force. The amendment prohibits the making of the fire section of a multiple policy excess insurance unless the consent of all concerned is obtained.

Another amendment relates to companies writing automobile insurance and ensures their right to be made third parties in actions between the person insured and the person injured by the insured. The insurance company can now be added as a party and defend the action even if the insured person does not defend.

Highway Traffic.—There were two Acts amending the Highway Traffic Act. C. 21 provided, among other things, for a change in the meaning of the words "number plate," and is similar to legislation passed in other Provinces.

Another provision is that allowing a person to change over the number plates on one vehicle owned by him to another vehicle owned by him which he may do upon complying with the requirements of the department and paying the necessary fee. Metal chauffeurs' badges are to be done away with after January 1, 1944.

C. 22 also makes certain changes in the law. One of these may be important in certain cases. There are sections of the Act in which reference is made to the Criminal Code. For example, in s. 123 penalties are imposed for violation of sections of the Criminal Code. It has been held that, unless otherwise specifically provided, the reference made in one statute to another statute means that other statute as it exists at the moment of the enacting of the first-mentioned statute and does not include in the reference any amendments subsequently made to the other statute. The amendment now made provides that whenever a reference is made to the Criminal Code it is deemed to mean the Criminal Code and any amendments thereto which have been or may hereafter be enacted.

Provisions are also made which will permit boys of fourteen years and over and up to the present minimum age limit of sixteen years to obtain licences to drive farm trucks and high-speed tractors subject to certain conditions as to recommendations for the issue of such a licence. Similarly boys of sixteen years and over and up to the present minimum age limit of eighteen years are to be allowed to obtain chauffeurs' licences to drive motor vehicles other than trucks with a carrying capacity of more than one ton and other than public service vehicles, subject also to certain conditions as to the recommendation for the issue of such a licence.

Changes are made in s. 73 of the principal Act with regard to the confiscation of bicycles. Numerous cases come before police magistrates where bicycles are confiscated under s. 73 principally because of the fact that the serial number has been obliterated. In some cases of this kind the person from whom the bicycle is taken is wholly innocent of any guilty intent and has purchased the bicycle in good faith. While, of course, ignorance of the law is no excuse, nevertheless it was felt to be a hardship that the bicycle should be taken away from a person who had no guilty intent. The amendment would permit the bicycle to be restored to the innocent purchaser in certain cases, that is to say, where he has acquired the bicycle in good faith and has had possession thereof for at least three years without knowledge of any breach of the Act with respect thereto. The amendments also provide that where the bicycle is not so restored the innocent purchaser can by a summary method of procedure recover the purchase price from the seller of the bicycle.

Law Society.—C. 29 provides that the benchers shall have power to create a special fund by the levy of an annual assessment on the members of the Law Society for the purpose of reimbursement in whole or in part of persons sustaining pecuniary loss by reason of the misappropriation or conversion by any member of the society hereafter of money or other property entrusted to or received by such member in his professional capacity. In addition to this, other amendments provide for giving the Law Society increased disciplinary powers providing particularly for powers to enforce the opening and keeping by members of the society of bank accounts for clients' moneys and for inspection, auditing, etc.

The amendments also clarify the provisions relating to the prohibition of the practice of law by unqualified persons and also clarify the definition as to what is to be deemed the practice of law.

Marriage.—An amendment to The Marriage Act is of importance. The Court of Appeal decided some time ago that the courts have no general power

to make an order declaring that a person shall for all purposes be presumed to be dead. Therefore a person whose spouse had been absent and unheard from for seven years or more had no means of obtaining a marriage licence since the provisions of The Marriage Act require persons who wish to obtain a marriage licence to swear, among other things, that they are unmarried or widows, etc. The new section added by c. 30 to The Marriage Act allows a person whose spouse had been unheard from and absent for seven years or more to apply to the court for an order of presumption of death. The effect of such an order is limited to permitting such person to obtain a marriage licence, and in such case the applicant does not have to swear that he is unmarried but merely that he has obtained an order of presumption of death. The marriage licence issued in such case, however, is to carry a Notice and Warning calling the attention of the persons to the fact that they should satisfy themselves as to the question of the validity of any proposed new marriage into which they are about to enter if it should turn out that the person stated in the order to be presumed to be dead is not in fact dead.

Manitoba Public Works.—The Public Works Act has been revised and consolidated in c. 41 with certain of the provisions of The Good Roads Act. Some of the provisions of The Good Roads Act have not been in use for a number of years and have been dropped in the consolidation. The Good Roads Act is now repealed by the new legislation in so far as its terms are not carried forward into the new consolidation of The Public Works Act.

5. NEW BRUNSWICK

[It is hoped to publish the review in the next issue.]

6. NOVA SCOTIA

[*Contributed by* C. L. Beazley, Esq.]

Public Utilities.—C. 2 consists largely of a rearrangement of the Sections of the present Public Utilities Act, with such minor verbal changes as are necessitated by the rearrangement, and the correction of inappropriate phraseology in the present Act.

The following is an outline of the new features or of substantial changes:—

S. 3 corresponds to s. 3 of the former Act, makes the tenure of office of commissioners "during good behaviour," and provides that the members of the Board and full-time employees of the Board shall come within The Public Service Superannuation Act.

S. 29 replaces s. 16 of the present Act and establishes prudent cost less accrued depreciation, calculated by the straight-line method, as the basis of valuation. This is in line with the tendency of courts and commissions in other jurisdictions on this continent.

S. 39 is new. It provides for determination of a rate base, and defines the elements to be included in the rate base, and provides for the amortization of certain so-called intangibles. This is a section designed to meet local problems, and is in line with the development of public utility administration in other jurisdictions.

S. 35 replaces s. 38 of the present Act and provides for depreciation reserves and depreciation accounts to be calculated on the straight-line basis or on such other basis as the Board may direct. This section is in line with the practice of other jurisdictions and is designed to eliminate doubt as to methods of calculating depreciation, and to assure uniformity in depreciation accounting and valuation proceedings.

S. 36 corresponds to s. 39 of the Act and eliminates the requirement that income from investment of depreciation reserves shall be paid into the deprecia-

tion account. When the straight-line method of depreciation is adopted, income from investment of the depreciation reserve shall belong to the company.

S. 40 is new and provides in effect that where one company supplies more than one service, each department of that company supplying a separate service is to be treated as a separate entity.

S. 42 corresponds to s. 101 of the Act revised to provide that a just and reasonable return on the rate base shall be allowed and that such return shall be in addition to expenditures which the Board deems to be properly chargeable to operating account.

S. 34 is a new section providing that a public utility must have the approval of the Board before undertaking extensions or additions involving an expenditure of more than 1,000 dollars.

Active Forces Relief.—C. 3 is divided into three parts: part I deals with mortgages and agreements of sale, part II with taxes, and part III with rents. In effect, the Act provides that where any person is in the armed forces an application may be made on behalf of such member to a judge for a stay or postponement of proceedings under a mortgage or for the collection of taxes or for rent.

If, at the hearing of such an application, the judge is of the opinion that the defendant's inability to make payment is due to the fact that he is a member of the armed forces, he may make an order staying or postponing the action for such time and on such conditions as he thinks fit.

The terms of the Act are extended to any dependent of any member of the armed forces if the judge is of the opinion that the inability of the dependent to make payments due is attributable to the fact that such person is a dependent of a member of the armed forces.

With respect to actions for distress of sale for the recovery of taxes, part II provides that no action shall be commenced or continued except with the approval of a judge.

Part III dealing with lessees and tenants provides that no action by way of distress, re-entry, eviction, or otherwise shall be instituted or proceeded with except with the approval of a judge.

The Act is of a temporary nature and expires on a day named by the Governor in Council as the date on which hostilities between the Dominion and Germany, Italy, and Japan cease.

The Act does not come into force until proclamation.

Change of Name.—C. 4 provides for a change of name and is in general conformity with the Acts of some of the other Provinces. It provides that any person twenty-one years of age and a British subject may effect a change of his name or names upon complying with the provisions of the Act. If the person applying is married, the change of name will also change the name of his wife and unmarried infant children, and if such person is a widow or widower the change of name will also change the names of unmarried infant children. If the applicant is a married man no change in his surname may be effected without the consent of the wife. A married woman living with her husband shall not during his life be entitled to change a surname acquired from him.

The change of name is effected by applying on a form set out in the schedule to the Act to the Registrar-General of the Province. This application must be accompanied by an affidavit of qualification and *bona fides* and prior to the delivery of the application a copy must be inserted in the Royal Gazette and in an issue of a newspaper circulating in the district in which the applicant resides.

Upon being satisfied with the application, the Registrar-General may change the name of the applicant and of his wife and minor children, and upon such change being made a certificate shall be issued and an entry made in a book called the Change of Name Register.

The original birth certificate is not altered but a marginal note is made thereon, and any such person is thereafter entitled to have his or her new name substituted in lieu of his former name in every instrument, document, contract or writing of whatsoever kind.

If the Minister is satisfied that any person has changed a name by fraud or misrepresentation, provision is made in the annulment for the change of name granted. The Act is in addition to any other power of changing of a name.

The Act does not come into force until proclamation by the Governor in Council so as to give an opportunity of getting the necessary machinery in motion.

Succession Duty.—At the present time, succession duty is leviable on all estates that exceed 25,000 dollars where property passes to or for the benefit of direct line relatives, so-called, and no duty is claimed if the estate does not exceed 25,000 dollars.

The rate of duty increases as the estate becomes larger, but the increases take place in substantial amounts when the estate passes specified figures. Thus, an estate of 99,000 dollars now pays succession duty at the rate of 4 per cent. and an estate of 100,000 dollars pays duty at the rate of 5½ per cent., so that the possession of an additional 1,000 dollars involved attracts an additional succession duty of 1,500 dollars and likewise an estate of 24,500 dollars, is free from duty, and an estate of 25,000 dollars pays a duty of 625 dollars. In order to get rid of these larger increases a graduated scale is now imposed, taking a basic rate and then increasing the rate by smaller amounts, usually 4/100ths of 1 per cent. for each 1,000 dollars by which the estate exceeds the basic figure.

In the case of the smaller estates a duty is imposed on estates exceeding 10,000 dollars in value instead of commencing at 25,000 dollars as heretofore.

At the present time there were three classifications of beneficiaries: the direct line consisting of grandfather, grandmother, mother, father, wife, husband, child, grandchild; the collateral line, so-called, consisting of brother, sister, uncle, aunt, niece, nephew, grandniece, grandnephew, cousin, cousin once removed, and third all other persons. A fourth classification has been made in the new amendment, namely, wife with dependent child or children or dependent child or children of the deceased. This classification still pay duty on estates exceeding 10,000 dollars in value, but the rates are very materially less than at present in the 25,000-dollar class. The duty commences in this class at 1/10th of 1 per cent. and gradually increases until at 25,000 dollars the duty is ½ of 1 per cent. in lieu of the 2½ per cent. rate at present charged.

In the case of a wife and children other than a dependent wife or dependent children, the duty starts at 10,000 dollars and at 25,000 dollars the duty is 2 per cent. instead of the present rate of 2½ per cent.

It is expected that the new rates of duty will bring approximately the same revenue to the Province as heretofore.

This Act applies in respect of persons dying on or after the first day of July. The delayed date is to give the department an opportunity to prepare and publish the new rates.

Vital Statistics.—A year or two ago, the Legislature authorized the issuance of a certificate of birth, or a record of birth showing merely the name, date, and place of birth of the person concerned. Some difficulties arose in respect of this certificate and a further amendment has been made to the section to provide that where the name of any person has been changed or altered by or under the provisions of any Act of Legislature, any certificate mentioned in The Vital Statistics Act may be given in respect of the birth of any person in the name of such person as so changed or altered. Thus, where a name has been changed pursuant to the provisions of The Change of Name Act or under a special Act of the Legislature or by a judge in adoption proceedings the person whose name has been changed may now obtain a record of birth in his new name, and this

record will indicate that the person under the new name was born at a specified place and time.

The complete birth record of the person may also be obtained, if desired, but it is expected that the usual certificate given will be in the short form and that the complete record with the marginal note will only be issued in unusual circumstances or where actually required.

Education.—The amendments in c. 16 to The Education Act are of form rather than of substance, except perhaps in the following respects:—

1. More definite provision is made respecting overcrowding so that one teacher may not have more than forty pupils in any room.

2. The Council of Public Instruction may require any teacher to undergo an examination and prescribe how the contract may be modified as a result of treatment taken by such teacher as a result of such examination.

3. Time spent by any licensed teacher on leave of absence as a result of such examination shall be considered time spent in teaching in such school for the purposes of pension.

4. The median tax rate to be imposed by municipalities that adopt the larger school unit, so-called, shall not exceed the median tax rate for the school year ended July 31, 1942.

Solemnization of Marriage.—Some religious bodies who do not observe Sundays as the chief day of worship requested that banns may be published on Saturday or such other day as is the chief day of the week for the celebration of divine service.

When making the amendment by c. 17 the provisions of s. 7 of The Solemnization of Marriage Act were revised so as to remove some ambiguity that existed respecting the publication of banns. The present section requires banns to be published in a church at the place in which one of the parties to the marriage resides by the officiating minister of any congregation at such place. The section will now require banns to be published during divine service in the city, town, or municipality where at least one of the parties to the intended marriage resides and in a church of the religious body to which the clergyman who is to perform the marriage belongs.

This Act is to come into force on the first day of July so as to give the department an opportunity of advising the religious bodies who publicize marriage by banns. The Act does not, of course, affect marriages by licenses.

Adoption.—The amendments of c. 18 provide that:

1. Where a person proposed to be adopted is under the age of sixteen years, no petition to the judge shall be made unless a copy of the petition has been filed with the Director of Child Welfare for one month prior to the hearing and unless the Director has had one year's notice of the proposed adoption. These provisions are to enable the Director of Child Welfare to examine the conditions under which the child is living and to be able to appear and give evidence before the judge as to the suitability of the adoptive parents and the suitability of the home in which it is proposed to take the child.

2. The Director of Child Welfare may give evidence as to the fitness and propriety of the proposed adoption, but his formal consent to the adoption is not required.

3. No order for adoption shall hereafter be made unless it is proved to the satisfaction of the judge that the child has lived with the petitioner for a period of not less than a year and that during that period the conduct of the petitioner and the conditions under which the child is living has been such as to justify the making of the order.

4. Upon an adoption order being made, the Clerk of the Court is required to forward a copy of the order to the Registrar-General of the Province, who will record the same in an adopted children's register, and if the name has been changed, he will record such change in the Change of Name Register, and

thereafter the adopted child will be entitled to a certificate of birth in the new name.

This Act does not come into force until proclamation so as to give the Department of Health an opportunity to prepare the necessary records and forms.

Municipal Courts.—At the present time, the police magistrate or acting police magistrate is frequently required to attend sitting of the town court merely for the purpose of entering a default judgment. The amendment to The Municipal Courts Act by c. 20 provides that where the plaintiff is entitled to judgment pursuant to the provisions of the Act that that judgment may be entered by and signed by the Clerk of the Court, who is usually the town clerk.

Juries.—The long list of exemptions from jury duty heretofore contained in the Act are struck out by c. 21 and the list now consists of merely members of the Senate, House of Assembly, judges, members of the armed forces, barristers, officials of the court, members of the police force, medical doctors, and clergymen.

Sub-s. (2) of s. 5 provides that the court may relieve any other person from serving as a juror for any reason which the court may deem sufficient.

The fees for special juries are increased from 25 dollars to 75 dollars, and this was added at the request from municipal councillors as the expenses for drawing a special jury is usually about 75 dollars, and it is felt that where a special jury is requested the person so requiring it should pay at least the out-of-pocket expenses of the municipality.

Costs and Fees.—A new provision has been added by c. 22 to part II of The Costs and Fees Act dealing with witnesses for the prosecution in respect of an indictable offence. In addition to the usual witness fees which are to be paid by the municipality the presiding judge may, on the application of any witness, direct that he be paid in addition to the fees prescribed a sum not exceeding 1½ dollars for each day's actual attendance, and in addition a sum not exceeding the amount by which his expenses exceeded the fees to which he is entitled. These additional witness fees are paid out of the Provincial Treasury.

Liquor Control.—The amendments in c. 24 make clear that no person to whom an individual permit has been issued shall have or make application for or be entitled to hold any other individual permit except as authorized by the Act in the case of duplicate permits.

Any person who presents a permit at a Government store for the purpose of purchasing liquor while there is outstanding in his name any other permit for the purchase of liquor is liable to a penalty of not less than 50 dollars nor more than 100 dollars for a first offence. Any person who has a second permit is liable to a penalty of not less than 10 dollars for a first offence.

At the present time a minor who purchases liquor is liable to a penalty of 50 dollars. An amendment is made to s. 77 to provide that such a minor shall be liable to a minimum penalty of 10 dollars for a first offence, but any person who sells or supplies liquor to a minor is still liable to the penalty of 50 dollars.

A further prohibition is made against any advertising or form of advertising by any manufacturer, dealer in, or distributor of liquor.

Securities.—The amendments in c. 25 prohibit any person from advertising or from issuing or distributing any advertising material in the Province unless the person or the security being so advertised has first been approved by the Registrar under that Act.

Mothers' Allowances.—The amendments in c. 26 provide for the increase in allowances to 80 dollars in lieu of the present allowance of 60 dollars.

The benefits are extended to children over the age of sixteen years dependent upon the mother because of mental or physical disabilities and to children of a married woman whose husband by reason of permanent mental or physical disability is unable to support his family.

Old Age Pensions.—Power is given under the 1943 amendments (c. 26) to the pension authority to pay a supplemental allowance not exceeding 10 dollars per month in cases where the income of the pensioner, exclusive of old age pension, does not exceed 125 dollars per year, provided that the supplemental allowance together with the pensioner's total income shall not exceed 365 dollars per annum.

Such supplemental allowances become payable on the first day of June, 1943, and the pension authority may, in its discretion, suspend or discontinue any such supplemental allowance.

Motor Vehicle.—Owing to the uncertainty of being able to obtain number plates for future years, provision is made for the issuance of some means of identification to be affixed to motor vehicles. C. 30 provides that regulations may be made by the Minister in respect to this matter and it was thought more desirable to follow this course until the situation is clarified. The means are designed as a temporary measure for the duration of the war or until metal plates again become available.

Amendments are made to s. 49 dealing with rental contracts for cars that are driven by the person hiring them. The Motor Vehicle Act presently makes the renter of a car jointly and severally liable with the operator for any damages occasioned by the driver, and some rental contracts have a clause relieving the renter of liability and certifying that the car is in perfect mechanical order. Any such provision that any contract is void and all forms of agreement are subject to the approval of the Motor Vehicle Registrar. The section dealing with this matter comes into force on proclamation so as to give the motor vehicle authorities an opportunity to approve forms of rental agreements.

Owing to the man-power situation, persons over sixteen years of age but under eighteen years of age are authorized to operate a motor vehicle as a chauffeur provided the weight of the motor vehicle does not exceed 7,000 lb. gross weight.

There is, at the present time, no section of The Motor Vehicle Act that prohibits the parking of a motor vehicle so as to obstruct or impede a street car, and a section is inserted for that purpose.

Lands and Forests.—The remuneration of persons called out to fight fires is changed by c. 21 from 1 dollar per day, as at present, to 20 cents an hour, or a minimum of 1 dollar. The building of fires for the purpose of disposing of slashings, edgings, and refuse lumber is prohibited except under license from the Fire Ranger.

At the present time any farmer may kill deer which destroy or damage crops, and any person in his employ may also so kill any deer. This section is amended to provide that the employee must have been an employee for a period of one month.

The killing of moose or deer while swimming is prohibited.

Residents of the counties of Lunenburg, Queens, Shelburne, Yarmouth, Digby, Annapolis, or Kings are permitted to trap and take three beaver in the county in which such person resides. Such killing or trapping is permitted between November 16 and November 30, 1943, and no more than three beaver may be taken by any person and not more than one person in any household is entitled to any such license.

Tags will be supplied by the Department of Lands and Forests and a tag must be affixed to the pelt of every beaver so taken and immediately after the taking, an affidavit must be taken before the Chief Ranger of the county of the time, manner, and circumstances surrounding the killing of any beaver, and all unused tags are to be returned to the department. All pelts of beaver lawfully taken are to be forwarded to the Department of Lands and Forests, who will market the same and remit the average price to the taker of any beaver.

The taking of cock pheasant is permitted in the County of Kings between October 24 and October 31, 1943.

The license fee for big game is increased from 2 dollars to 3 dollars.

The sections dealing with search and seizure are enlarged and clarified without making any material change.

The Governor in Council is authorized to pay a bounty equal to the bounty paid by any municipality for the killing of bear or the sum of 5 dollars, whichever is the greater.

Rural Electrification.—It is at present provided that the residents of any district may petition a public utility for an electrical extension into such district, and if the public utility fails within three months of the presentation of a petition to signify its intention to proceed, or if the utility fails within six months of presentation of such petition to commence construction, the Power Commission is empowered to undertake the work. The time for the public utility to signify its intention to commence the construction is reduced to one month and three months respectively, and if the public utility does not commence the work and complete the same within a reasonable time, the commission is empowered to carry out the work and the public utility must then sell energy to the commission at the actual cost of the utility.

The Commission is also authorized by c. 32 to furnish equipment or other necessary assistance to the utility where in the opinion of the Commissioner facilities and equipment of the utility are not adequate to carry out required extensions.

Assessment.—Heretofore, a poll tax was not payable in a municipality where the person was rated on any personal property, and it not infrequently happened that a person was rated for one cow or in respect of some other trifling amount of property and thus avoided liability to pay a poll tax. The amendments in c. 33 provide that poll tax is payable unless the person is rated to a sum of 200 dollars or more.

Notices of assessment and the like may be served by mailing the same addressed to the person assessed.

Workmen's Compensation.—The particular change in c. 34 is to provide for an increase in the schedule to payments of widows, invalid widowers, and children of 40 dollars a month in lieu of the present payment of 30 dollars a month, the increased payments to apply irrespective of when the accident happened, but the increased payments are not to be made in respect of any period of time prior to May 1, 1943. Where a workman is entitled to compensation under the Defence of Canada Regulations due to his employment in the shipping or fishing industry the workman is not entitled to claim compensation under the Pension Act.

Highways.—C. 37 provides for discount to municipalities for payment of the highways tax before the last day of June. Interest begins to run after the last day of September as heretofore. S. 40A is amended to provide that the sums rated for snow removal purposes shall be placed into a separate fund and not the sums actually collected. This is to avoid the necessity of having the municipal clerk break down each receipt for part payment of taxes.

Municipalities.—The presiding officer is required by c. 38 to have affixed to any nomination paper a receipt from the municipal treasurer that the candidate's taxes are paid. Provision is made for the creation of a Special Reserve Fund for post-war capital purposes and a municipality is authorized to rate for sums to be placed in this fund. The municipality is also authorized to rate for and pay compensation to the owners of sheep that have been killed by bear.

The remuneration of municipal councillors may be increased by by-law from 5 dollars a day to 10 dollars a day. Municipalities are authorized by by-law to license any type of automatic machine.

Towns' Incorporation.—C. 39 provides for the creation and payment into a

Special Reserve Fund similar to that for municipalities. Towns are authorized to license all kinds of automatic machines set out in the Act.

The towns are also authorized by by-law to compel parents to prevent children under the age of sixteen years from being on the streets of the town after the curfew hour.

Tabling of Regulations.—All regulations are now required by c. 42 to be tabled in the House of Assembly within twenty days after the making or within twenty days from the sitting of the House next after the making thereof. The question of proof of the tabling of the regulations is dealt with in this amendment. All such regulations are *prima facie* deemed to have been laid before the House of Assembly until contrary be shown.

Provincial Finance.—The Governor in Council is authorized under c. 44 to invest in the Sinking Funds of the Province any amount standing to the credit of the Province by reason of the amortization of discounts.

The Governor in Council is further authorized to create out of current surpluses a fund for carrying out projects which may be instituted for the purposes of post-war rehabilitation.

8. PRINCE EDWARD ISLAND

[*Contributed by* W. E. Bentley, Esq., K.C.]

Acts passed, 19; Public, 12; Private, 7.

Forces' Relief.—By c. 3, protection is provided for the property and interests of members of His Majesty's forces on active service. The Act declares that no legal action or proceeding, judicial or extra-judicial, shall be taken, commenced, or continued against any member of His Majesty's forces on active service in Canada or elsewhere, or against any of his property, real, personal, or mixed, in respect of any debt or obligation contracted or assumed by him prior to the commencement of his current period of active service, without the leave of a judge of the Supreme Court or of the court wherein such proceeding is to be taken or continued. The judge is given an absolute judicial discretion in the granting or refusing leave and shall have regard to the length and conditions of the defendant's active service, the likelihood of his being able to fulfil his obligation on completion of active service, his general financial situation and attitude to the discharge of obligations, the nature of property and interests likely to be affected by the proceeding, the probability of wastage or damage to such property in case of a moratorium, and the probability of hardship to the family or dependants of the defendant as a result of the proceeding. Upon application for leave, if the defendant is not represented, notice must be given to an official soldiers' or veterans' welfare representative to be designated by the Attorney-General. The protection of the Act applies for a year after the conclusion of the war or the defendant's discharge from active service, whichever shall first take place. It does not apply to members of reserve formations doing only annual, periodic, or occasional training or service. The Statute of Limitations or other such bar is not to operate or run in favour of any person in the period during which the defendant is entitled to the protection of the Act.

Insurance—War Damage.—By c. 7, in cases other than motor vehicle liability policies, an insurer is not liable for loss or damage caused directly or indirectly by bombardment, invasion, civil war, insurrection, rebellion, revolution, military or usurped power, or by operations of armed forces while engaged in hostilities whether war be declared or not, or by civil commotion arising from any of the foregoing, unless the policy or an endorsement thereon expressly provides otherwise.

Oil and Natural Gas.—Encouragement is given (by c. 8) to exploration and prospecting for oil and natural gas within the Province by the grant by the

Lieutenant-Governor-in-Council of an exclusive license to search, subject to certain conditions, with a right of entry upon private lands to make surveys and examinations, bore and excavate for oil, and erect buildings and other works, provision being made for compensation to the owner and tenant, the amount of the damage to be settled by agreement or referred to arbitration. Leases may be granted if oil is found, subject to a royalty; the lease to be for 99 years with right of renewal. The inclusion of mines or minerals in any previous Crown Grants or other deeds is not to prevent the vesting of oil and natural gas in His Majesty nor the passing of such rights to a licensee or lessee under the Act.

Intoxicating Liquors.—Extracts, tinctures, compounds and essences, and any liquid commonly known as moonshine or home brew, are declared (by c. 9) to be intoxicating liquors, and may only be sold subject to certain restrictions and conditions.

9. QUEBEC

[*Contributed by the* HON. MR. JUSTICE SURVEYER.]

IN the year there were passed 48 Public Acts and 31 Private Acts.

Electrical Engineering.—The preamble to c. 5 states that, since electricity is a factor of primary importance in the economic life of the Province, it is important to train here specialized technicians in this field, and the Act authorizes the Cabinet, upon the recommendation of the Minister of Mines, to enter into an agreement with Laval University to establish at Quebec City a school of electrical engineering and to pay out of the consolidated fund, upon conditions to be determined, an amount not exceeding 1,000,000 dollars. The Act came into force May 26, 1943, the day of its sanction.

Economic Advisory Council.—Considering that the end of the present war will inevitably have a serious effect on the economic life of the Province through the demobilization of the armed forces and the conversion of war plants, and that it is important to provide at once for the most suitable measures to direct economic life in all fields, c. 8 establishes an Economic Advisory Council as a consulting body to investigate the agricultural, forest, mineral, and industrial resources and to suggest the necessary measures to ensure that they are used as rationally and as completely as possible, in particular paying attention to the needs of farmers, fishermen, artisans, small industrialists, and small traders. The council is to be composed of not more than 15 members whose services are gratuitous, and who are appointed by the Cabinet and eligible for re-appointment; it is charged especially with drawing up in collaboration with the Federal Government and the Governments of the other Provinces a programme for the utilization of the labour which will be available at the close of the present war, but the Cabinet may ask that the council give prior study to any specific problem.

The Prime Minister is charged with the carrying out of the Act which came into force June 23, 1943.

Civil Service.—C. 9, replacing the Civil Service Act (Revised Statutes, 1941, c. 11), enacts various new provisions.

Courts of Justice.—The Courts of Justice Act (Revised Statutes, 1941, c. 15) is amended by c. 11 which increases the powers of the judges of the sessions. The Act also obliges every judge of the sessions to retire at the age of 75 years and provides for pensions on retirement and on resignation.

Education.—C. 13 enacts regarding compulsory school attendance and obliges every child from the age of six years to 14 years to attend school, prohibiting any person from employing these children during school hours under penalty of a fine. The Act, however, enumerates the classes of children exempted from compulsory attendance: those prevented by illness or infirmity, those having completed the primary school course, and those living at designated

distances from the nearest school. In addition, the attendance officer may release any child from school attendance for a period not exceeding six weeks during the school year when the services of the child are required for farm work or for urgent and necessary work at home or for the maintenance of the child or his relatives. The Act provides for the appointment of attendance officers to supervise the observance of compulsory attendance and delineates the duties of the officers. Any father, mother, tutor, or guardian of a child obliged to attend school who, having received notice that his child is absenting himself from school, does not see that the child goes to school is liable on summary proceeding to a fine, or the court or judge may require any person found guilty to sign a bond with one or more sureties to pay a sum up to 100 dollars.

Successions.—Replacing the Succession Duties Act (Revised Statutes, 1941, c. 80), c. 18 declares among various new provisions that all insurance benefits for religious, charitable, or educational purposes carried out outside the Province are duty free, provided that the same exemptions are allowed by the state or Province where such property is utilized, for insurance benefits made by persons under its jurisdiction, for similar purposes carried out in the Province; the same exemption applies to any sum payable to a church, a *fabrique* or a parish, a cemetery association or company, or a corporation or association having an establishment in the Province and created for religious, charitable or educational purposes which must be carried out therein. In addition, no duty is exigible in estates the aggregate value of which does not exceed $10,000, on property transmitted in the direct line, ascending or descending, between consorts, between father- or mother-in-law and son- or daughter-in-law, and on transmissions between the same persons; nor is any duty exigible on property transmitted owing to death to collaterals in estates the aggregate value of which does not exceed $1,000.

Water Powers of the Ottawa River.—The agreement entered into on January 2, 1943, between the Province of Ontario, the Province of Quebec, the Hydro-Electric Power Commission of Ontario and the Quebec Streams Commission respecting the water powers of the Ottawa River was ratified and confirmed by c. 20 on May 20, 1943.

Industry.—The preamble to c. 23 states that for the purpose of promoting the cultivation of sugar beets, the Department of Agriculture has undertaken the construction of a beet sugar factory and the Act enables the Cabinet to authorize the issuance of letters patent for the creation of a corporation under the name of "Quebec Sugar Refiners," of not more than five members appointed by the Cabinet to possess and operate a beet sugar factory, the profits of the corporation to belong to the Province. The Cabinet may also authorize the Provincial Treasurer to guarantee the payment of loans contracted by the corporation up to the amount of $2,000,000, and the Cabinet may authorize advances to the corporation up to the amount of $2,000,000.

Superior Labour Council.—The creation of a Permanent Board of 9 members is provided for by c. 26, amending the Superior Labour Council Act (Revised Statutes, 1941, c. 159), the Board to prepare the work of the Council and to serve as a connecting link between the Council and the Minister of Labour; and the composition of the Permanent Board is also delineated by the Act.

Workmen's Compensation.—By c. 27 numerous amendments are made to the Workmen's Compensation Act (Revised Statutes, 1941, c. 160), and c. 28, amending the same Act, provides for the payment of compensation in accidents to blind workmen, a person being deemed to be blind if his vision renders him incapable of doing work for which sight is essential.

Health Insurance.—The preamble to c. 32 states that the commission inquiring into provincial hospitals recommended in its report the introduction of universal health insurance, financed by a threefold contribution by the Government, the employer and the insured, involving a premium calculated not on an individual

basis, but per family group, and administered by a commission whose first responsibility is to prepare a plan of insurance.

Accordingly, the Act constitutes the "Quebec Health Insurance Commission," composed of not more than three members appointed for ten years by the Cabinet, the members being forbidden to engage in any other employment, industry or profession but being obliged to devote their entire attention to the work of the Commission and the duties of their office. The duties of the Commission, after consulting the interested parties, consist in preparing a plan of universal health insurance defining, in particular, the extent of the risks to be covered by the insurance, the nature of the benefits, the methods of hospitalization, etc. The Cabinet is empowered to authorize the Provincial Treasurer to advance to the Quebec Health Insurance Commission, out of the consolidated revenue fund, the sums required for its operation pending the adoption by the Legislature of the Health Insurance Plan. The Minister of Health and Social Welfare is entrusted with the carrying out of the Act which came into force on the day of its sanction, June 23, 1943.

Maritime Fisheries.—C. 34, amending the Maritime Fisheries Department Act (Revised Statutes, 1941, c. 200) as replaced by 1942 George VI, c. 55, ensures the necessary credit for maritime fisheries by creating an annual fund of $75,000 as from April 1, 1943, and empowers the Cabinet to use the fund for guarantees to fishermen's co-operative associations or to fish co-operative federations, the Cabinet to regulate in regard to the repayment of the guarantees and to take the needed measures to ensure that the guarantees are used properly. An annual fund of $5,000 is also created for the use of the Cabinet in paying interest on loans made by credit unions to fishermen and in paying premiums of insurance on the lives of fishermen who contracted the loans.

Copper in Wartime.—In the preamble to c. 36 it is stated that, in order to release copper which would otherwise be used as a conductor of electricity in certain plants, the Government of the United States of America is willing to make available an equivalent quantity of silver now kept in ingots, and that it is expedient in the interest of the war effort to facilitate this substitution.

Accordingly, the Act exempts from all provincial, municipal, and school taxes and privileges, any silver conductor of electricity belonging to the United States of America and placed thus in any provincial plant, the plant, however, being taxed as if it contained an equivalent copper conductor. The Act came into force April 15, 1943, the day of its sanction.

Trade and Commerce.—Formerly, trade and commerce were dealt with under the Department of Muncipal Affairs, Trade and Commerce, but c. 39 amending various Acts creates a new Department of Trade and Commerce to be administered and directed by the Minister of Trade and Commerce, who is, in particular, in charge of favouring, by all the methods and means which he may deem adequate, the advancement and the development of trade and commerce; co-operating with the Government of Canada to facilitate the carrying out in the Province of the Acts of the Parliament of Canada relating to trade and commerce so that the trade and commerce of the Province benefit thereby; suggesting practical measures for the rational sale and utilization of the trade and commerce products of the Province, both in this country and abroad; compiling statistics, except demographic statistics. The duties and powers of a deputy minister appointed by the Cabinet are also delineated, and all deeds, contracts, documents, and writings must be signed by the Minister or Deputy Minister. The Act came into force April 1, 1943.

Bar.—C. 41 enacts that a candidate for admission to the Bar must be a Bachelor of Arts of a Canadian or British university or of a university or college the degree whereof is recognized as the equivalent by Laval, McGill and Montreal universities. The Act was assented to June 23, 1943, and came into force on that day.

Co-operative Syndicates.—Among various new provisions, c. 43 declares that the syndicate is a civil corporation whereas formerly it was of the nature of a joint-stock company; at the present time, any person having his place of business within the syndicate's territory is eligible for membership. The object of the association being to study, protect and defend the economic interests of the working classes, the association may buy for re-sale to associates only articles necessary for the support of life or for the works of their industry, open up credits for them and make loans to them, etc., but these co-operative activities are not deemed to constitute the carrying on of a trade, financial establishment or means of earning a profit.

The Act also provides for the admission as auxiliary members minors and married women even common as to property, and permits them to subscribe for shares for an amount up to $1,000.

Seigniorial Rent Abolition.—The Seigniorial Rent Abolition Act (Revised Statutes, 1941, c. 322) is amended by c. 43, which obliges every creditor of constituted rents replacing seigniorial dues to register before November 11, 1944, against every lot or part of a lot liable for the payment of dues a memorial stating his name, title to capital and arrears of rents, etc., and on failure to register the creditor loses his privileged recourse against the immovable. Moreover, the Act authorizes the Board of Commissioners to grant further delays in place of those stipulated in favour of His Majesty in the right of the Dominion of Canada in his capacity of trustee of seigniories held for the benefit of Indians.

Armed Forces.—In order to protect the small property of any member of the forces, c. 45 provides that any person on active service in the armed land, sea or air forces of His Majesty or his allies, and likewise any member of his family of whom he is the main support, may obtain a delay for the payments of claims against their immovables if he shows to the satisfaction of a judge of the Superior Court, upon petition, that his service renders him wholly or partly unable to fulfil his obligations; guarantors and sureties of the debtors benefit also by the delay.

The Act enumerates the various claims against property for which a delay of payment may be obtained and the kinds of immovables included; and it regulates concerning delays, service, taxes and law costs in regard to the petition. There is no appeal from the judgment on the petition, but it may be revoked or modified. The delay under the Act extends until the expiration of one year from the end of the present war or from the date when the member of the forces ceases to be on active service if that event occurs before the end of the war. The Act came into force June 23, 1943.

Civil Procedure.—C. 47, amending the Code of Civil Procedure in numerous ways, provides: that in any action relating to the application of a provision of public order, the Attorney-General or any crown prosecutor may, *ex officio* and without notice, take part in the trial and hearing, as if he were a party, and the Attorney-General may, *ex officio*, enter an appeal from the final judgment, as if he were a party to the suit and without any need to furnish security; that in instituting personal actions against several defendants residing in different places, the defendants may all be brought before the court of the place where one of them may be summoned; and that where a continuance of any suit is not contested within the delays, it is held admitted without any need for adjudication.

10. SASKATCHEWAN

[*Contributed by* J. P. Runciman, Esq., *Legislative Counsel*]

Of the 77 Acts passed 72 were Public and 5 Private.

Interpretation of Statutes.—No. 2 is a consolidation and revision of The Interpretation Act, embodying uniform provisions adopted in 1941 by the Conference of Commissioners on Uniformity of Legislation in Canada.

Legislative Assembly.—The duration of the present Legislative Assembly was extended by No. 3 for one year.

Public Health.—The Public Health Act was amended by No. 56 by the insertion of provisions authorizing the making of regulations governing the licensing of owners of ambulances, the first aid qualifications to be held by the persons in direct supervision of an ambulance while in actual operation and the first aid kit and other equipment to be carried in ambulances.

Evidence.—The Saskatchewan Evidence Act was amended by No. 13 by the insertion of a new section relating to prints from photographic films in accordance with the draft bill of the Commissioners on Uniform Laws.

Reconstruction.—No. 68 provides for the establishment of a Reconstruction Council and directs the council to study and investigate conditions and problems that are likely to arise during or after the conclusion of the war and to recommend plans, policies and activities for the purpose of meeting such conditions and problems.

Debtor and Creditor.—Various provisions were placed on the statute book with the object of giving, as far as possible, the same protection as that formerly given by The Debt Adjustment Act, which had been declared *ultra vires* by the Privy Council. These new provisions are shortly as follows:

Amendments to The King's Bench Act and The District Courts Act (Nos. 9 and 10) authorize the court to make an order giving directions for payment by a judgment debtor of the amount recoverable under the judgment at such times and in such amounts as the court deems fit and giving further directions as to what proceedings, if any, may be taken by way of execution or otherwise to the enforcement of the judgment.

The Land Contracts (Actions) Act (No. 17) applies to: (a) any action by a mortgagee, or his personal representatives or assigns, for foreclosure of the equity of redemption, or for sale or possession of the mortgaged premises or for the recovery of any moneys payable under the mortgage; (b) any action by a vendor of land, or his personal representatives or assigns, for specific performance or cancellation of an agreement for sale of land, or for sale or possession of land sold under agreement of sale, or for any other relief that may be granted under the provisions of any such agreement.

Commencement of an action is prohibited except by leave of a local Master of the Court of King's Bench granted upon application made in accordance with the Act after notice to interested parties. An appeal lies to a judge of the Court of King's Bench. There is no further appeal.

Mechanics' Liens.—Commencement of an action to realize under a mechanic's lien is prohibited by No. 63 except by leave of a judge of the district court granted upon application made in accordance with the Act after notice to interested parties. An appeal lies to a judge of the Court of King's Bench sitting in chambers in the judicial district in which the land in question is situated. There is no further appeal.

Moratorium.—No. 18 confers upon the Lieutenant Governor and the Lieutenant Governor in Council the respective powers conferred by the repealed Debt Adjustment Act, but these powers are qualified by an additional provision declaring that any proclamation or order in council issued pursuant to the powers so conferred shall state the period during which the proclamation or order shall remain in force, which period must not be longer than two years from the date on which the proclamation or order takes effect.

11. NEWFOUNDLAND

[*Contributed by* H. G. PUDDESTER, ESQ.]

DURING the calendar year 56 Acts were passed. Many of these make only

minor amendments or involve administrative matters of merely local interest, and only those hereinafter referred to seem likely to be of any general interest.

Death Duties.—No. 4 provides that the manager of any bank, etc., or other corporation holding money on deposit shall notify the Assessor of Taxes of the existence of an account or safety deposit box as soon as he becomes aware of the death of any person entitled to any such account, or holding or renting any such box. On the death of any holder resident or domiciled outside Newfoundland, of its shares or debentures, except debentures registered or entered in a register kept in any part of the United Kingdom or Northern Ireland, every company must transmit to the Assessor a written notice of the death, setting forth the shares or debentures held by the deceased at the date of his death. All personal property of a deceased person who was domiciled in Newfoundland at the date of his death, whether situate within or without Newfoundland, is to be deemed to be included in his estate for the purposes of the Act.

Food and Drugs.—No. 13 consolidates the law relating to the preparation of food or drugs in Newfoundland. Generally the Act provides for prevention of adulteration of food or drugs, sanitation in places where food intended for sale is prepared or stored, licensing of specified trades and inspection of food and drugs and premises where they are prepared or stored.

Income Tax.—No. 14 increases the amount of surtax and supertax payable by individuals in receipt of income in excess of $10,000 and by certain classes of companies.

No. 19 increases the amount of income tax payable by individuals by 50 per cent. thereof.

Excess Profits.—No. 16 provides for an increase in the excess profits tax. The total of income tax and excess profits tax is not to exceed 42½ per cent. of the net taxable income of the year of taxation. The addition to or reduction from profits on an increase or decrease of share capital is raised from 7½ per cent. to 10 per cent.

Export Duties.—No. 17 provides for payment of a levy upon export of sealskins and certain salted or pickled fish. The amount collected is to be used for the assistance of the fishing industry generally.

No. 18 provides for an export levy upon salt fish produced during 1943 and for the disposal of the amount collected for the purpose of fixing minimum prices for salt fish produced from fish caught in the calendar year 1943. A marketing fund is established into which shall be paid by the Government amounts equivalent to the sums paid under the levy.

Life Insurance.—No. 25 amends and consolidates the law relating to life insurance in Newfoundland.

Trade Marks.—No. 27 makes provision for the rectification of the register of trade marks. Registration is conclusive after seven years from the date of the original registration or the date of coming into operation of this Act, whichever happens last.

Herrings.—No. 28 suspends the operation of c. 156 of the Consolidated Statutes (Third Series) (which deals with the exportation and sale of bait fishes) as respects herring from June 1, 1942, to May 31, 1944.

Education.—No. 30 provides for the establishment, subject to the approval of the Governor in Commission, of common schools under a common Board of Education where the districts of Boards of Education of different denominations coincide geographically in whole or in part.

Forces' Relief.—No. 35 provides that no death duty or Court fee, whether collected by means of stamps or otherwise, shall be charged or payable on the estate of any member of the armed forces of His Majesty, of an allied state or of any member of the Mercantile Marine on any British or allied ship who dies on active service or as a result of wounds received or exposure or disease incurred as a result of enemy action within twelve months after such action.

Emergency Powers.—No. 36 continues in force the Emergency Powers (Defence) Act, 1940, for a further two years from September 20, 1943, and provides for the continuation in force for a further year by order in Commission. Provision is also made for the expiration of the Act on the day on which an Order in Commission comes into force declaring that the present emergency is at an end.

Personal Injuries.—No. 37 is designed to exclude payment of compensation under this Act to civil defence or home guard volunteers where compensation is payable under the Employers' Liability Act or the Workmen's Compensation Act or where compensation or damages would be payable by some other person because of negligence, nuisance or breach of duty for which such person is responsible.

Fisheries.—No. 39 empowers the Newfoundland Fisheries Board by notice published in the *Newfoundland Gazette* to prohibit the export, except under licence from the Board, of herring of the type or types named in the notice. A licence may be refused for failure to comply with the Act or the regulations made under this or any other Act or with conditions upon which the granting of a licence depends.

Estates of Forces.—No. 41 provides that the Commissioner for Public Health and Welfare may apply for administration of the estate of a member of the services who has died intestate or with a will of which he has not appointed an executor. Administration is limited to gratuity money, deferred pay or any other moneys payable in respect of his services. The administrator appointed is not required to furnish security nor is he entitled to payment for his services.

Rent Restriction.—No. 45 and No. 47 are designed to cover by enactment the provisions of the Defence (Rent Restrictions) Regulations 1941 made under the Emergency (Defence) Act, 1940. By a judgment delivered in the Supreme Court of Newfoundland the regulations referred to were declared *ultra vires* the powers of making regulations under that Act.

12. BERMUDA

[*Contributed by* E. T. RICHARDS, ESQ.]

SIXTY-THREE Acts were passed in 1943 and some of these included only minor amendments.

Protection of Children.—No 2 creates the machinery for Governmental approval of Societies found suitable for the care and protection of ill-treated and neglected children, and provides adequate punishment for cruelty to children by parents and guardians.

Audit Department.—Under No. 5 the Audit Board is replaced by the Audit Department comprising a Colonial Auditor—a new official to Bermuda—and his staff.

United States Bases.—No. 7 amends the United States Bases (Acquisition of Land) (St. David's Island) Act, 1941, by abolishing the power given to the St. David's Committee of Rehabilitation to pay to dispossessed persons any surplus money over and above the cost of rehabilitation.

To meet the contingencies of Parliamentary elections No. 20 provides for the registration of those persons, now rehabilitated or in the process of rehabilitation, possessing the statutory qualification.

No. 16 authorizes the United States Government to acquire certain other lands and rights over lands for purposes connected with the United States bases.

Divorce.—For the first time Divorce Law has reached the Statute book. The Matrimonial Causes Act follows very closely the pattern of English legislation on the subject. The Judicial Proceedings (Regulation of Reports) Act which followed is a necessary supplement to the Matrimonial Causes Act.

Public Health.—No. 12 amends The Public Health Act, 1937, by making comprehensive provision for the control of Venereal Disease. No. 42 gives power to the Corporation of St. George to raise £17,000 by issue of debentures for the purpose of constructing a sewerage system, and No. 63 authorizes the Corporation to construct, maintain and operate the system in the town of St. George.

Motor Cars.—The limited use of motor cars was granted by No. 32 and No. 54, general use still being prohibited. The Governor of the island was at last permitted to use a motor car. Permission for use was also extended to veterinary practitioners. Medical practitioners were already using motor cars on the highways by virtue of the Motor Car (Registered Medical Practitioners) Act, 1942. Special provisions were made for "taxis" and for cars in the service of H.M. Forces, the U.S. Forces and certain public institutions. No. 39 dealt with Third Party Insurance against risks arising out of use of motor cars.

Supreme Court.—No. 33 enacts "as a provisional measure" that either the Chief Justice or the Assistant Justice (possessing the proper qualifications) can, sitting alone, constitute the Supreme Court and exercise all the powers and jurisdiction of the Court.

Broadcasting.—By No. 35 a petition was granted to establish the Bermuda Broadcasting Company Limited with a ten-year monopoly except as against the Government of Bermuda or persons (natural or artificial) engaged in non-commercial transmission. The Company's minimum capital shall be £15,000, its maximum £200,000.

Railway.—No. 58 permits the Bermuda Railway Company Ltd. to continue exhibits of advertisements in its cars for another year and No. 59 grants further exemption from payment of parochial, municipal and colonial taxation for a similar period.

Development.—Provision for the appointment by the Governor of a Board to manage and control the Government Airport at Darrell's Island and Burt's Island is made by No. 17, while No. 18 aims at controlling the development of land outside municipal areas with a view to the preservation of local amenities.

III. AUSTRALIA

1. COMMONWEALTH OF AUSTRALIA

[*Contributed by* Sir George Knowles, C.B.E., M.A., LL.M., *Solicitor-General and Parliamentary Draftsman.*]

The fifty-eight Acts passed during 1943 include many taxation measures and customs and excise validating Acts. An Act of particular interest is Defence (Citizen Military Forces) Act which defines the limits of the area in the South Western Pacific in which the citizen military forces of the Commonwealth may be required to serve.

Assistance to States.—The Tasmania Grant Act, 1943 (No. 25) grants the amount of £200,000 for financial assistance to the State of Tasmania in respect of the year which commenced on July 1, 1942, in addition to the sum already granted for that year. This Act was, however, repealed by the States Grant Act (No. 54) which appropriates the sum of £2,470,000 for financial assistance to the States of South Australia, Western Australia, and Tasmania for the financial year 1943–1944. The amounts payable to these States are: South Australia, £900,000; Western Australia, £850,000; and Tasmania, £720,000.

Banking.—The Commonwealth Bank Act (No. 13) authorizes the establishing of the Mortgage Bank Department of the Commonwealth Bank. The capital of this department is not to exceed £4,000,000, and is to consist of an amount of £1,000,000 transferred to the department from the special reserve account of

the Commonwealth Bank, amounts paid to it from the net profits of the bank, and amounts paid to it from the profits derived from the issue of Australian notes. Loans may be made through the Mortgage Bank Department to persons engaged in farming, agricultural, horticultural, pastoral, or grazing operations upon the security of a mortgage of an estate or interest in land used or to be used primarily for such operations. Loans may be made for a period of not less than five years and not more than 41 years, and the amount of the loan is not to exceed 70 per cent. of the value of the land secured as determined by the bank, or £5,000, whichever is the less. At any time after the expiration of five years from the date of the mortgage, a person indebted to the bank may repay the balance of the loan then outstanding.

Customs.—By a series of Customs Tariff Validating Acts, customs tariff proposals introduced into the House of Representatives on March 5, 1942, and September 2, 1942, have been validated for an indefinite period. These Acts are as follows: The Customs Tariff (Canadian Preference) Validation Act (No. 8); The Customs Tariff (Canadian Preference) Validation Act (No. 2) (No. 32); The Customs Tariff (Exchange Adjustment) Validation Act (No. 5); The Customs Tariff (Exchange Adjustment) Validation Act (No. 2) (No. 29); The Customs Tariff (New Zealand Preference) Validation Act (No. 7); The Customs Tariff (New Zealand Preference) Validation Act (No. 2) (No. 31); The Customs Tariff (Special War Duty) Validation Act (No. 6); The Customs Tariff (Special War Duty) Validation Act (No. 2) (No. 30); The Customs Tariff Validation Act (No. 4); and The Customs Tariff Validation Act (No. 2) (No. 28).

Defence.—The Defence (Citizen Military Forces) Act (No. 2) enacts that any member of the Citizen Military Forces may be required to serve in such area in the South-Western Pacific Zone as is specified by proclamation. The South-Western Pacific Zone is the area bounded on the west by the 110th meridian of east longitude, on the north by the equator, and on the east by the 159th meridian of east longitude. The Act is to continue in force until the expiration of six months after Australia ceases to be engaged in hostilities in the present war. The War Service Estates Act (No. 39) amends the War Service Estates Act, 1942, to remove a doubt as to the persons to whom the estate of a deceased member of the armed forces might be distributed.

Electoral.—The Commonwealth Electoral (War-time) Act (No. 27) extends the qualification to vote at Commonwealth elections to members of the forces under the age of 21 years who are serving or who have served outside Australia and to discharged members under such age who have served outside Australia. It also provides that members of the Civil Constructional Corps employed outside Australia or in Australia north of the 26th parallel of south latitude may so vote as if they were members of the forces.

Excise.—The Excise Tariff Validation Act (No. 9) and the Excise Tariff Validation Act (No. 2) (No. 33) validates the collection of duties of excise demanded or collected pursuant to Excise Tariff Proposals introduced into the House of Representatives on March 5, 1942, March 25, 1942, September 2, 1942, and January 28, 1943.

Inscribed Stock.—The Commonwealth Inscribed Stock Act (No. 58) authorizes the making and sale of War Savings Stamps and National Savings Stamps in such denominations as the Treasurer determines. War Savings Stamps may be accepted at their face value in payment of War Savings Certificates and National Savings Stamps for Treasury Bonds (other than War Savings Certificates) or Stock.

Maternity Allowance.—The Maternity Allowance Act (No. 16) increases the amount of maternity allowance from £4 10s. to £5 where there are no other children, from £5 to £6 where there are not more than two other children, and to £7 10s. where there are three or more children. A payment of 25s. per week will be made in respect of each four weeks immediately before and after the

birth of the child. The income qualification in respect of an allowance is removed. Payments of maternity allowances are to be made from the National Welfare Fund established by the National Welfare Fund Act (No. 12).

National Security.—The National Security Act (No. 38) extends the regulation-making power under the National Security Act to enable regulations to be made:

(*a*) to confer original jurisdiction on the High Court;

(*b*) to define the jurisdiction of any Federal Court other than the High Court; and

(*c*) to invest any Court of a State with Federal jurisdiction,

in respect of matters arising under those regulations. The Act was passed as a result of a decision[1] of the High Court in which the Court declared that the National Security Act did not authorize the Governor-General to make certain regulations conferring jurisdiction on Courts. Provision is made for the validation of such regulations and judgments of Courts purporting to exercise jurisdiction by virtue of any of those regulations.

National Welfare.—The National Welfare Fund Act (No. 12) establishes the National Welfare Fund which is to be applied in making payments in relation to health services, unemployment or sickness benefits, family allowances, or other welfare or social services. In each financial year the sum of £30,000,000 or one-quarter of the income tax received from persons (other than companies), whichever is the less, is to be paid into the Fund from the Consolidated Revenue Fund. While the States Grant (Income Tax Reimbursement) Act, 1942, is in operation the amount received in any financial year as income tax from persons (other than companies) is, for the purposes of the annual payment, to be deemed to be the total amount so received less £21,000,000.

Navigation.—The Navigation Act (No. 1) makes certain machinery amendments to the existing provisions of the Navigation Act in relation to Courts of Marine Inquiry.

Pensions.—The Invalid and Old-age Pensions Act (No. 14) enables an allowance not exceeding £39 per annum to be paid to the wife of an invalid pensioner. An allowance of £13 per annum is also payable to the wife or invalid husband in certain circumstances if he or she has in his or her custody, care, and control one or more children under the age of 16 years. From July 1, 1943, funeral benefits will be payable in respect of the death of an invalid or old-age pensioner, the amount payable being the actual cost of the funeral or £10, whichever is the less. Payments for funeral benefits are to be made from the National Welfare Fund established by the National Welfare Fund Act (No. 12). The Invalid and Old-age Pensions (Reciprocity with New Zealand) Act (No. 36) approves the execution of an agreement between the Commonwealth and the Dominion of New Zealand under which residence in either country will be treated as residence for the purpose of qualification to receive invalid and old-age pensions in either the Commonwealth or the Dominion. The Widows' Pensions Act (No. 15) relates to the variation of widows' pensions and allowances in accordance with price index numbers. It omits references in the Act to "*de facto* wife" or "*de facto* widow" and in their place the expression "dependent female" is used.

Primary Producers Assistance.—The Dairying Industry Assistance Act (No. 37) is an Act "to provide for the granting of assistance to the dairying industry with the object of aiding the prosecution of the war." It applies such amounts as are appropriated by Parliament in making payments to producers of dairy produce. Dairy produce is defined as cows' milk, or any produce derived from cows' milk, which is to be processed at a factory into butter, cheese, dried milk (not being skimmed milk powder), condensed milk, or concentrated milk. The Primary Producers Relief (Superphospate) Act (No. 20) enables payments to be made to the manufacturers of superphosphate to stabilize

[1] *Silk Bros. Pty. Ltd.* v. *State Electricity Commission of Victoria* (67 C.L.R. 1).

the price of superphosphate during the year ending June 30, 1943. It is also provided that the Minister may, after recommendation by the Superphosphate Industry Committee, make such payments during that year as he considers desirable for the purpose of decreasing, or preventing an increase in, the price of superphosphate. The aggregate amount of the payments is not to exceed £900,000.

Public Service.—The Commonwealth Employees' Furlough Act (No. 19) grants furlough rights to temporary employees of the Commonwealth who have served for at least 20 years, and extended leave or payment in lieu thereof to temporary employees whose period of service is less than 20 years. The furlough which may be granted is leave of absence not exceeding one and a half months on full salary for each completed five years of service. The Superannuation Act (No. 18) confers superannuation benefits upon certain employees of the Williamstown Dockyard who were transferred to the Commonwealth on October 28, 1942.

Repatriation.—The Australian Soldiers' Repatriation Act (No. 22) makes extensive amendments to the Australian Soldiers' Repatriation Act, 1920–1941. The pension rates are increased by approximately 20 per cent. The bases of eligiblity for pension in respect of the present war are broadened. A member of the forces who was employed on *active service* (whether within or without Australia) is covered for pension purposes in respect of incapacity or death resulting from *any occurrence* happening at any time during his service. In the case of a member who was not employed on active service, pension is payable in respect of his incapacity or death if it *has arisen out of or is attributable to his service as a member.* The means test for widows without children is abolished. Arrears of pension may be granted up to six months instead of three months in cases where previously rejected claims are granted or cancelled pensions are regranted. Pension will be payable in respect of members who have served in a theatre of war and who, at any time after discharge, have died or die or become or became incapacitated from pulmonary tuberculosis. The onus of proof that a claim, application, or appeal in respect of a pension should not be allowed to the full extent claimed is placed on the Board, Commission, Appeal Tribunal, or Assessment Appeal Tribunal determining the claim, application, or appeal. The benefit of the doubt principle is extended in favour of a claimant for pension. Except in respect of conditions concerning pensions to dependants, members of Women's Services are eligible for benefits on the same basis as male members as regards eligibility and rates of pension. The service pension scheme is extended to members of the forces (whether male or female) of the present war. Preference in employment in the public service of the Commonwealth and in works or services performed by contractors with the Commonwealth is to be given to members who have served outside Australia or in combat areas.

Taxation.—(i) Income Tax. The Income Tax Act (No. 11) imposes income tax to be levied and paid for the financial year beginning on July 1, 1943, and declares the rates of such tax on the various classes of income. The average rate of tax commences at 6d. in the £, rises to approximately 14s. 1½d. in the £ at an income of £5,000, and thereafter continues to increase towards a maximum of 18s. 6d. in the £ on the highest range of income. In view of the reduction in the effective exemption for taxpayers without children from £156 to £104, the commencing rate of tax has been reduced from 8d. in the £ on the first £150 to 6d. in the £ on the first £100. The rates of tax for property incomes have been reduced in the lower income ranges, the rates being the same as those on personal exertion income for all incomes up to £200. Above £200 the differentiation in rates rises rapidly to rates 25 per cent. higher than personal exertion rates at £1,000. The Income Tax Assessment Act (No. 10) effects many amendments to the existing Income Tax Assessment Act. Exemption is granted in respect

of portion of the income derived from the production of base metals or rare minerals for use in the prosecution of the present war. Expenditure, on business or income producing premises, for the protection of persons and property from hostile action by enemy forces is to be an allowable deduction. The pay of members of the Defence Force and persons employed on sea-going ships is, within certain limits, an allowable deduction, the whole of such pay being a deduction if it does not exceed £250. A new part relating to the registration of tax agents is inserted in the Act. A Tax Agents' Board is set up in each State and it is the function of these Boards to consider applications for registration as tax agents and to register the applicants as such. Unregistered tax agents are not to charge fees for the preparation of tax returns, etc. Persons carrying on business are required to keep records of income and expenditure and to retain such records for a period of at least seven years. The Income Tax (War-time) Arrangements Act (No. 34) makes an amendment to the Income Tax (War-time Arrangements) Act, 1942, relating to the superannuation contributions of officers transferred under that Act from the service of a State to the Public Service of the Commonwealth.

(ii) Sales Tax.—The Sales Tax Acts (Nos. 1–9) (Nos. 45–53) and the Sales Tax (Exemptions and Classifications) Act (No. 2) (No. 44) reduce the rate of sales tax on clothing and household drapery for which coupons must be surrendered from 12½ per cent. to 7½ per cent. The Sales Tax (Exemptions and Classifications) Act (No. 35) exempts from sales tax piping, tubing, channelling, and guttering used in the agricultural industry, educational films, and certain imported goods, up to a value of £10 in any one year, sent or brought to Australia by members of the Defence Forces. It withdraws imported newsprint from the list of goods now exempt from sales tax, and includes in the Schedule of articles on which a sales tax at a rate of 25 per cent. is imposed toilet articles known as liquid hosiery and goods sold as mottoes for decorative purposes.

(iii) War-time Company Tax.—The War-time (Company) Tax Assessment Act (No. 21) excludes from profits on which war-time (company) tax is assessed income derived by a company from investments in certain Commonwealth loans.

2. NEW SOUTH WALES

1942

THIRTY-FIVE Acts were passed in the year. Among them are two in the nature of private Acts in the United Kingdom. One, No. 17, deals with the affairs of the British Home Supplies Pty. and provides for an investigation into its affairs and the payment of the receiver and manager. The other, No. 23, is concerned with the property real and personal held upon any trust for the benefit of orders, congregations, and communities of the Roman Catholic Church in New South Wales.

Conveyancing.—Amendment was made by No. 1 in the Conveyancing Act, 1919 and 1939, in order to provide for war damage to property.

Motor Vehicles.—New taxation was imposed by No. 2 upon motor vehicles and trailers. In the case of the latter the basis is the gross weight of the trailer unladen for attachment to a motor vehicle.

No. 15 is a comprehensive measure making amendments to previous legislation so as to cover the subject of third-party insurance.

Electricity.—No. 3 is in the nature of a local and personal Act in United Kingdom legislation and deals with the control and administration of certain electricity works, in particular the Burrinjuck Hydro-Electric Administration and the Port Kembla Electricity Undertaking.

Milk.—By an amendment of the existing legislation contained in Acts 1931 to 1936, No. 5 reconstitutes the Milk Board and amends its powers in relation to the testing of the supply of milk.

Local Government.—No. 11 is a measure dealing with the conditions arising out of the existence of a state of war and makes provision in respect to elections in the city of Sydney and other municipalities. In particular power is given to construct air-raid shelters, trenches, and other works for the protection of persons and property from injury or damage in the event of any warlike attack. It also provides for compensation for injuries to persons engaged in the Defence Forces.

Worker's Compensation.—The amendment of the Worker's Compensation Act, 1926–1942, in No. 13 makes provision for workers engaged in rural work such as timber-getters. It also extends previous legislation to other classes of workers.

Minor amendments include a special provision by which the payment of child endowment shall not preclude the child from being totally or mainly dependant on the earnings of the worker for the purposes of the Act. In another section the school-leaving age is substituted for the age of 14 years as the period during which compensation is payable.

Employers may be called upon to provide suitable employment of injured workers during their partial incapacity for their pre-injury employment.

No. 14 makes further provision regarding the payment of compensation in the case of workers who suffer death or disablement from silicosis or other diseases of pulmonary or respiratory organs caused by the exposure to silica dust.

Amendments were also made in the provisions of the Act specially relating to Broken Hill and further amendments were made by No. 30. Finally, amendments were also made in reference to silicosis by No. 31.

Taxation.—Nos. 19 and 21 contain provisions whereby arrangements may be made with the Commonwealth authorities so as to enable the latter to obtain the agreed funds from taxation, respectively in regard to entertainment and income tax.

Friendly Societies.—Provisions are inserted in the Friendly Societies Act 1912–1935 by an amending Act, No. 20, which enables societies to make payments for their members and other dependants for maintenance in hospital and other forms of medical treatment. It also authorizes the societies to make subscriptions to hospitals.

Dormant Funds.—No. 25 provides for the appointment of a Commissioner of Dormant Funds to deal with certain funds donated or collected for charitable and other public purposes which have not been in operation for a period of six years or more. Any person dissatisfied with a decision in respect to the dispersal of any such fund in abeyance has the right of appeal to Charity Referees, of whom one shall be a judge of the Supreme Court appointed on the nomination of the Chief Justice, and he shall be the chairman. Others will be appointed by the Attorney-General, the Minister of Public Instruction, and by the interested bodies.

Public Trustee.—No. 26 is an amending Act of the Public Trustee Act, 1913–1942, which is concerned to deal with the balance of accounts in the hands of the Public Trustee and to effect other amendment in the administration of his department.

Coal.—The State Coal Mines Control Board is reconstituted with amendments by No. 27.

Commonwealth Powers Act.—No. 33 embodies a measure adopted by the State of New South Wales with a view to granting further powers to the Commonwealth Parliament.[1]

[1] See Broadbent, Constitutional Amendments in Australia. *Jour. Comp. Leg.*, 3rd. Ser., Vol. XXV, at p. 24.

FORTY-SIX Acts described as public general, though several were in the nature of legislation such as is described in the United Kingdom as local and personal, were passed during the year, and one private bill dealing with the will of Jacob Lollback.

Banks Memorial.—No. 1 is in the nature of a local and personal Act in the United Kingdom, as it deals with the constitution of a body corporate to be known as The Trustees of the Sir Joseph Banks Memorial Fund, the funds of which were raised partly by public subscription and partly by the sale of a book entitled *Sir Joseph Banks, father of Australia.*

Irrigation.—No. 2 is an extensive measure dealing with irrigation in different parts of the State and amends the Irrigation Act, 1912–1941, the Wentworth Irrigation Act, the Hay Irrigation Act, 1902, the Water Act, 1912–1941, the Crown Lands Consolidation Act, 1913, and the Western Lands Act of 1901.

Police.—No. 5, to amend the Police Regulation Act, 1899–1941 makes provision for ensuring the secrecy of the police wireless code.

Disorderly Houses.—No. 6 provides for the closing of disorderly houses by a declaration by a judge of the Supreme Court upon an application by the police.

No. 39 provides for the forfeiture of liquors, drugs, etc., seized in disorderly houses and suspected premises.

Military Forces.—By an amendment of the Conveyancing Act, 1919–1943 provision is made for the furnishing of evidence of non-revocation of powers of attorney given by persons engaged on war service.

Further amendment of the Conveyancing Act, 1919–1943, is made by No. 29, which provides for powers of attorney given by persons engaged on war service to continue in force until death or revocation.

Matrimonial Causes.—No. 9 enacts that no marriage shall be declared invalid or deemed ever to have been invalid by reason only of the fact that it was celebrated after the making of a decree absolute in divorce proceedings in which either party was petitioner or respondent, and before the expiration of the time limited for appeal against that decree absolute.

Sydney University.—No. 10 appoints the Sydney University as sole trustee of the Sydney University Engineering School Memorial Lecture Fund.

Red Cross.—No. 11 vests the property of the New South Wales Division of the Australian Red Cross Society in the Australian Red Cross Society and amends the Australian Red Cross Society New South Wales Division Incorporation Act, 1929, accordingly.

Civil Service.—By the Public Service (Commonwealth Elections) Act, 1943, (No. 12), public servants who have resigned in order to contest an election to the Parliament of the Commonwealth of Australia may be reappointed to the public service.

Aborigines.—By an amendment to the Aborigines Protection Act, 1909-1940, No. 13 reconstitutes the Aborigines Welfare Board and makes it a body corporate with extended powers, authorities, duties, and functions.

Local Government.—Amendments are made in the Local Government Acts by No. 15, which provides for the postponement of the preparation of rolls of citizens of the City of Sydney and any other municipality, as well as for the control and management of abattoirs.

Factories and Shops.—The Factories and Shops Act, 1912–1941 are extended by No. 16 so as to include chemists, confectioners, cooked provisions, fish, flower, fruit and vegetables, newsagencies, refreshment, restaurant, and tobacconists. It also makes provision for securing the safe working of tools and pressure vessels.

Legal Aid.—No. 17 provides for the granting of legal assistance of persons of limited means by the appointment of a Public Solicitor with such staff as may be necessary for the execution of the duties laid down in the Act. The

applicant for assistance must not be possessed of property of a total value of more than £100 exclusive of—

(i) the subject matter of the proceedings;
(ii) wearing apparel of the applicant;
(iii) tools of trade of the applicant;
(iv) household furniture used by the applicant in his home;
(v) a dwelling-house owned and used by the applicant as his home where the value of the interest of the applicant in that dwelling-house does not exceed seven hundred and fifty pounds,

" the income of the applicant, together with the income (if any) of the spouse of the applicant, during the period of twelve months preceding the making of the application after deducting therefrom an amount equal to fifty pounds for each person totally dependent on the applicant or spouse, does not exceed the multiple of fifty pounds next above the annual equivalent of the needs basic wage assessed on the index number for Sydney for the quarter current at the date of the application, together with the fixed loading applicable to the needs basic wage so assessed."

If another party makes application for legal assistance in the same proceedings the Public Solicitor shall not himself act for either, but shall assign a solicitor whose name is on the list of the solicitors kept under the Act. The Public Solicitor may require the assisted person to deposit with him an amount to be used towards meeting out-of-pocket expenses not including office expenses, but has the power to waive deposit in any case where it would involve hardship to the applicant.

An assisted person shall not without the leave of the Public Solicitor discharge any barrister or solicitor assigned to act for him. Any barrister or solicitor assigned to act for an assisted person shall not discontinue his assistance without the leave of the Public Solicitor: provided that any barrister or solicitor may be represented by any other barrister or solicitor.

The Public Solicitor may authorize appeals to the High Court or even to the Privy Council.

Commonwealth Powers.—No. 18 deals with the relations between the Commonwealth of the State arising out of the Convention held with a view to giving further powers to the former during the continuation of war conditions (see *infra*, p. 61).

No. 28 authorizes arrangements to be made between the Government and the Attorney-General of the Commonwealth in respect to the collection and assessment of income tax.

No. 32 ratifies an agreement made between the Minister of Health for the State and the Minister of External Affairs and Minister in charge of Territories of the Commonwealth in reference to the treatment of lunatics in Norfolk Island.

Ship Building.—The programme of shipbuilding was entrusted to the New South Wales Engineering and Shipbuilding Undertaking of which the functions are defined in No. 19 and provision made for the appointment of a director of the undertaking.

Sale of Goods.—No. 36 is an Act to be read and considered with the Sale of Goods Act, 1923–1937, and deals specifically with what are known as " laid-by sales." The definition of a laid-by sale " is the sale of goods or an agreement to sell goods under conditions, express or implied, which provide that—

(*a*) the goods sold or agreed to be sold will not be delivered to the purchaser until the purchase price or a specified part or proportion thereof is paid, whether or not any charge is expressed to be payable for storage of the goods; and
(*b*) the purchase price or, where a deposit is paid, the balance of the purchase price

(i) is to be payable by instalments (whether the number of instalments or the amount of all or any of the instalments is fixed by those conditions or is left at the option of the purchaser) payable over a fixed or ascertainable period; or

(ii) is to be paid at the expiration of a fixed or ascertainable period with an option, express or implied, for the purchaser to make payments in respect of the purchase price during that period."

Land Settlement.—No. 38 provides for the conversion of certain settlement purchases and soldiers' group purchases into leases in perpetuity and makes amendments in the Closer Settlement Act with that object.

Cruelty to Animals.—Previous legislation dealing with the prevention of cruelty to animals is strengthened by No. 44.

Hospitals.—The Hospital Commission which was established in the Public Hospitals Act, 1929–1940, is reconstituted by No. 45 and now consists of three members of whom one shall be a medical practitioner.

Railways.—Officers employed in the transport services are entitled by No. 46 to one holiday pass each year, authorizing free travel on the Government railways of New South Wales for a period not exceeding the period of the annual leave due to him.

3. QUEENSLAND

[*Contributed by* JOSEPH E. BROADBENT, I.S.O., B.A., *Parliamentary Counsel and Draftsman of Queensland.*]

SUBSEQUENT to the adjourned Session of January, 1943, when the Parliament passed the Commonwealth (Transfer of Powers) Act, the Queensland Parliament held two Sessions, one from March 24 to April 16, 1943, and one from July 28 to November 5, 1943. During those Sessions in all 39 Acts were passed. The following are the summaries of the major measures, the remainder being of a purely local or domestic nature, including some Private Acts.

Commonwealth Powers.—The object of No. 19 is to refer certain matters to the Parliament of the Commonwealth until the expiration of five years after Australia ceases to be engaged in hostilities in the present war.

On October 1, 1942, the Commonwealth Attorney-General introduced into the Federal Parliament a Bill to alter the Constitution in several wide directions. This Bill was intituled a Bill " to alter the Constitution by empowering the Parliament (of the Commonwealth) to make laws for the purpose of carrying into effect the war aims and objects of Australia as one of the United Nations, including the attainment of economic security and social justice in the post-war world and for the purpose of post-war reconstruction." On October 9, 1942, the Prime Minister invited the Premiers and Leaders of the Opposition of the States to a Convention to consider the question of giving increased powers to the Commonwealth. The Convention met at Canberra on November 24, and was comprised of an equal number of Members of the Federal Parliament representing the Commonwealth Government and the Federal Opposition (four Senators and eight Members of the House of Representatives) and the six Premiers and Leaders of the Opposition of the States—24 representatives in all.

At the Convention the Prime Minister indicated that consideration had been given to the objections raised against the first Bill as circulated and advised that the Attorney-General (the Right Hon. H. V. Evatt, LL.D.) would explain the amendments proposed therein. The Attorney-General then circulated among members of the Convention a new draft Bill intituled " A Bill for an Act to alter the Constitution by empowering the Parliament to make laws for the purpose of post-war reconstruction and by guaranteeing religious freedom and freedom of expression."

After discussing the alternative Referendum Bill, the Convention finally resolved that the holding of a referendum, especially at this juncture, was inadvis-

able and that the State should, pursuant to the provisions of placitum XXXVII of s. 51 of the Commonwealth Constitution, refer certain powers to the Commonwealth for a limited period.

The Preamble of the Bill succinctly sets forth the following matters:

In the first paragraph it quotes s. 51 (XXXVII), above referred to, stating that "Whereas it is enacted by the Constitution of the Commonwealth of Australia that the Parliament of the Commonwealth shall, subject to the Constitution, have power to make laws for the peace, order and good government of the Commonwealth with respect to matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law."

The Preamble cites the holding the Convention above referred to, and stated it was at such Convention "unanimously resolved that adequate powers to make laws in relation to post-war reconstruction should be referred to the Parliament of the Commonwealth by the Parliaments of the States."

There is also indicated that it was "further resolved that the reference should be for a period ending at the expiration of five years after Australia ceases to be engaged in hostilities in the present war."

The Preamble also indicates that it was also resolved that it was desirable that the reference should not be revoked during that period. A reference was also made in the Preamble to the effect that the Premiers of the several States agreed to do their utmost to secure the passage through their respective Parliaments, as early as possible, of a Bill in this form (i.e., the form as agreed upon at Convention) and, in any event, to introduce the Bill before January 31, 1943. As an indication of mutual co-operation between the Commonwealth and States the Preamble also cited that "in the execution of laws made by the Parliament of the Commonwealth with respect to matters referred to it by s. 2 of this Act, the Commonwealth should, so far as might be reasonably practicable, avail itself of the assistance of the States and their officers, authorities and instrumentalities, and with the consent of the Governor-in-Council, of any authority constituted under a law of a State."

This measure then was passed in accordance with the resolution agreed upon by the Convention referred to above.

The matters of reference are set out in s. 2 of the Act, and they will indicate that the matters so referred may be classed as matters "national" or "Australia-wide" in character and ambit.

As a safeguard against any simple revocation by a State of the Act referring the powers indicated, s. 3 provides for a specific method for repealing or amending it. This method follows the principle laid down in the New South Wales Constitution Act wherein it provides that the Legislative Council of that State cannot be abolished unless the Bill passed by Parliament approving of such abolition is approved by the electors of the State. This principle was also adopted in the State of Queensland by the Constitution Amendment Act of 1934 providing that the Legislative Council (or similar Chamber) cannot be restored or reconstituted unless a Bill passed by Parliament approving of such restoration has been approved by the vote of the electors of the State.

In the present case a Bill to repeal or amend this Act shall not be presented to the Governor for His Majesty's Assent until the Bill has been approved by the electors. On a day to be appointed by the Governor-in-Council, but not sooner than three months after the passage of the Bill through Parliament, the Bill shall be submitted to the electors qualified to vote for the Election of Members of the Legislative Assembly. When the Bill is submitted to the electors the vote shall be taken in such manner as the Legislature provides. If a majority of the electors voting approve the Bill, it shall be presented to the Governor for His Majesty's Assent.

An important provision is contained in s. 4. It provides that this Act, and the reference made by it, shall commence on the date upon which it is assented to, and shall continue in force for a period ending at the expiration of five years after Australia ceases to be engaged in hostilities in the present war; and no law made by the Parliament of the Commonwealth with respect to matters referred to it by this Act shall continue to have any force or effect, by virtue of this Act or the reference made by this Act, after the expiration of that period.

The Local Government Acts and Another Act Amendment Act, 1943.—The triennial election for local authority elections, which in ordinary circumstances would have been held in April, 1942, was not so held on account of war exigencies.

This amending measure definitely fixes the date for the election of chairmen and members of local authorities as May 1, 1943. This election will be deemed a triennial election for the purposes of the Principal Act, and the next election shall be held in April, 1946, accordingly.

Under the law, " contingent " voting was permissible for the election of the chairman of a local authority, such chairman being elected by the whole of the electors of the local authority concerned.

To bring the method of voting into line with that now obtaining in respect of elections to the State Parliament contingent voting has been abolished, and the candidate having the greatest number of votes shall be elected.

The elections for the City of Brisbane, usually held triennially on the last Saturday in April, will be held on May 1, 1943, as the last Saturday in April is Easter Saturday.

As the provisions of the State Elections Acts are applied in respect of voting for the Lord Mayor and Aldermen of the City of Brisbane, contingent voting will be abolished for such elections also.

Provision has also been made to conserve electoral forms and material for local authority elections, as in the case of State parliamentary elections.

Rural Lending.—The Co-ordination of Rural Advances and Agricultural Bank Act Amendment Act (No. 40) contains the following principles:—

(1) Amendments to the Title of The Rural Development Co-ordination of Advances Act of 1938, with a view to indicating that the Act deals with rural lending. The main object is to introduce the words " Agricultural Bank."

(2) To constitute the Treasurer the lending authority under the Act in lieu of the Minister for Agriculture and Stock, and to change his title as such authority to the " Corporation of the Agricultural Bank." Experience has shown that the title " Bureau of Rural Development " misleads landowners, whereas everybody knew the purposes of the old Agricultural Bank.

(3) The reconstitution of the Rural Development Board under the name of " The Agricultural Bank Board "; the membership of three to represent lands, agriculture and stock, and the General Manager of the Bank representing the Treasury.

(4) Provision for the Governor-in-Council to establish district branches of the bank upon the recommendation of the Board.

(5) Provision for the appointment, upon the recommendation of the Public Service Commissioner, of a General Manager of the Bank.

(6) Departments, local authorities, local bodies, and their officers to co-operate with the Agricultural Bank.

(7) Maximum advance by bank to any one mortgagor increased from £1,800 to £5,000, and maximum term of loan increased from 25 to 35 years. Advances for specific purposes are increased *pro rata*. Provision is also made for advances for additional purposes.

(8) Authority to lend under the following Acts is transferred to the Agricultural Bank, namely:—

(i) From the Secretary for Public Lands under the Wire and Wire-Netting Advances Acts and the Marsupial Proof Fencing Acts.

(ii) From the Secretary for Agriculture and Stock under the Farmers' Assistance Debts Adjustment Acts.

(iii) Advances for rural development under The Financial Arrangements and Development Aid Act of 1942. Formerly such advances came under the Income (State Development) Tax Acts.

In addition to the liberalization of advances and terms of loans provided for in the Act, the maximum rate of interest on advances has been reduced to 4 per cent. per annum. This concession has been operative since July 1, 1943.

Land Tax.—No. 36 suspends the imposition of the additional land tax on undeveloped land from July 1, 1943, to and including the last day of the financial year to commence after the date on which His Majesty ceases to be engaged in the present war.

Libraries.—The object of No. 39 is to ensure the more effective attainment of national education in this State by making better provisions for the establishment and management of libraries and library services. Provision is also made for the conservation of the Public Records of the State.

The Act will seek to attain this end by a proper co-ordination of library facilities on a statutory basis.

The Act will be administered by the Minister, who for the present will be the Chief Secretary.

There will be a Library Board. This first Board, which will be in the nature of a provisional Board, may be established on the passing of the Act.

Its members will be appointed by the Governor-in-Council. There will be six members, plus an *ex officio* member, who will be the Librarian of the Public Library.

The notion of having a provisional Board is so that the Board can immediately put into working order a scheme together with any necessary regulations to fulfil the purposes of the Act.

The control and management of the Public Library will be placed under the Board, and power is given to establish branches thereof. The Board will be a body corporate and have the usual corporate powers. Lands may be placed under its control as trustee.

The general duty of the Board will be to attain efficient co-ordination and the improvement of the library facilities of the State with the object of placing such facilities on a sound basis for the benefit of the citizens of the State. The Board will also take action to ensure the fullest co-operation with the Department of Public Instruction, the Queensland University, and various bodies, including local bodies, having for their object the encouragement of education, literature, and the various arts and sciences. The definition of what a local body is is naturally a wide one, as it embraces local authorities, institutes, trade unions, association of employers, returned sailors, soldiers and airmen associations, schools of arts, and educational bodies.

The Board may also make recommendations and inquiries as to improved library services and facilities, and will undertake the proper care, supervision, and control of the Public Library, the books and property thereof.

Provision is also made for a system of book-lending services and also for the dissemination of methods of keeping libraries amongst the various societies concerned, and for a system of training of library assistants. The Board will have power to affiliate with certain societies, which are called affiliated societies, these societies being such as are formed for the purpose of the encouragement of education, art, science, or literature, or for library or library services. These societies who will affiliate will receive certain benefits or advantages which will be prescribed.

Bequests may be made to the Public Library or for the purposes of this

Act; and the Bill will provide for a £1 for £1 endowment thereon up to £5,000 in any one year.

There is also provision for the establishment of a circulating library, which no doubt will be welcomed in distant centres.

There will be also a Library Fund. This fund will be constituted of appropriations from time to time by Parliament, legacies, donations, endowment, and other moneys received.

The fund will be applied in carrying out this Act. The Board, with the approval of the Governor-in-Council, may also make grants or loans or both on prescribed terms to local bodies or affiliated societies for library purposes. It will also invest surplus funds in Commonwealth or State securities as directed by the Treasurer.

A provision deals with local authorities, which term includes the City of Brisbane. It is laid down that a local authority may establish and conduct library facilities, including a circulating library, and also a joint local authority may be formed for the purpose. This provision is an extension of the existing Local Government Acts. Such local authority may appoint a committee to manage the affairs of such library services and to the committee may be appointed persons not necessarily aldermen or councillors. Usual by-law and financial provisions of these Acts are applied.

A provision will also be made allowing a local authority to take over schools of arts in certain circumstances. It may do so when the trustees so request; or if in the public interest and for the betterment of the people it deems it so desirable. But any such transfer must obtain the approval of the Governor-in-Council; and any trustees objecting to such transfer have the right of appeal to the Governor-in-Council, who may delegate such hearing to a judicial body or person.

An important branch of the measure will concern the preservation of the Public Records of the State. These records are usually of a high historical value, and it is considered that proper action should be taken to constitute what may be called "an archives branch." Certain provision will be provided to give effect to this important phase of the Act.

Post-war Reconstruction and Development Trust Fund.—No. 15 is an Act to aid post-war reconstruction and the development of the State of Queensland by the creation of a Post-war Reconstruction and Development Trust Fund and for other purposes.

The Preamble sets out its purport, namely: "Whereas for the peace, welfare, good government, and economic welfare of the State of Queensland it is considered desirable that early action be taken in and towards marshalling and conserving the finances of the State on a planned system and to build up a reserve fund to aid post-war reconstruction and the future development of the State."

This measure will be read with the State Development and Public Works Organization Acts and the Financial Arrangements and Development Aid Act of 1942.

The object of this is to ensure that major works projects which may be planned for future development will receive the survey of the Co-ordinator-General of Works, in accord with the present practice of planned works organization.

S. 3 provides that for the purpose of marshalling and conserving the finances of the State and to build up adequate reserve funds in the direction of aiding post-war reconstruction and the future development of the State there is established at the Treasury a trust fund to be called the "Post-war Reconstruction and Development Trust Fund."

Into the fund shall be paid such amounts from consolidated revenue as shall

be from time to time approved by the Governor-in-Council by Order-in-Council and appropriated by Parliament.

Also the interest received or proceeds of investment of the fund are paid into the fund.

Out of the fund shall be paid expenses of management and such disbursements for the objects and purposes of this Act as may be approved by the Governor-in-Council by Order-in-Council and appropriated by Parliament.

In any Order-in-Council it may be indicated that of the amount set out therein as being paid from the consolidated revenue into the trust fund, such amount or defined portion thereof shall represent a particular Department or service; and, moreover, such Order-in-Council may contain a direction that such amount or defined portion thereof shall be applied in its disbursement only in and for the purposes specified in such Order-in-Council and in respect of the particular Department or service concerned; and in that event such direction shall inure and have effect and shall be obeyed.

Where in the trust and/or special funds the Treasurer thinks the state thereof warrants his investing a portion of such balance he may recommend accordingly, and the Governor-in-Council may sanction the investment accordingly.

The Treasurer may invest moneys in its credit in securities of or guaranteed by the Government of the Commonwealth or the State, or in deposit in the Commonwealth Bank, or in such securities as he approves. He will be a corporation for this purpose.

Workers' Compensation.—No. 9, an amending Act, makes amendment in the principal Act in the direction of compensation payments.

The measure increases the weekly rate of compensation to a worker and his family when the worker has been totally or partially incapacitated by accident.

At the present time the weekly payment (apart from allowances to children) is based on 66⅔ per cent. of the weekly average earnings or the worker's award rate. Such weekly payment, however, did not exceed £3. This measure will increase that basis to £3 3s.

Again, where the weekly earnings are less than £3, instead of a 66⅔ per cent. basis the basis is 100 per cent. The present law fixes that maximum at £2 weekly. This measure will consequentially alter the figure £3 to £3 3s., and it will fix a new maximum in this case to £2 2s. weekly.

There will also be a new allowance of 10s. per week for the wife during the incapacity or until a lump sum payment is made.

Children's allowances are also increased from 8s. to 10s. per week.

It must be borne in mind, however, that the Act will not increase the *maximum* payment for incapacity laid down in the principal Act—namely, £750.

Nor will the Act affect the *maximum* weekly payment (taking into consideration allowances for wife and children)—namely, a sum equal to the average weekly earnings or £5 per week, whichever is the smaller amount.

No. 37 extends the benefits of the Principal Act in four directions, namely:—

(1) It brings under the ambit persons earning at the rate of £650 per annum instead of £520 per annum as formerly. At present, owing to the war, workers are earning up to the increased rate, and it is considered they should not be debarred from the benefits of the Act on that account.

(2) Where compensation is payable for the loss of a limb or other disability by means of a table of compensation, this measure provides that weekly payments (deducted hitherto) shall not be deducted, but that the total lump sum shall be paid to the worker in accordance with the table, but not exceeding in the whole £750.

(3) In the existing measure there are two classes of compensation in respect of mining diseases such as phthisis (one class receiving only half compensation). This measure will place all such sufferers in the same class, and hence both classes will receive the full compensation as laid down in the Act.

(4) A further payment of 5s. per week is payable to the wife of the worker receiving compensation under the Mining Diseases provisions of the Act.

Coroners.—No. 8 makes various amendments to the Principal Act of 1930, the more important of which may be noted.

In the first place there is a change in the definition of "coroner." The main difference is that a stipendiary magistrate or an acting stipendiary magistrate will, *ex officio,* be a coroner, and will have not only jurisdiction in his petty sessions district, but throughout the State. This will simplify administration and avoid delays.

It is also provided that where there is a special appointment made in Brisbane or other city by virtue of the Principal Act of a coroner, the jurisdiction of the stipendiary magistrates or acting stipendiary magistrates will still be preserved. This, of course, will further simplify administration and save delays in holding inquiries.

A new provision gives power to a coroner to dispense with the holding of an inquest if he considers no good purpose thereby served. He will certify to the Minister to that effect and also will forward any relevant police reports or the post-mortem certificate to the Minister at the same time.

However, there is nothing herein to relieve a coroner from the obligation of holding an inquest where any special Act demands that same should be held or where under this Act the Minister so directs.

New provisions are also made in regard to the procedure on inquests following recent legislation elsewhere.

Instead of there being a mere inquiry into the cause of death which at the termination is accompanied with a certificate of particulars of the death, there will be what is called an inquisition. Or, in other words, a coroner will now give a decision or a finding. And in this finding he shall state who was the deceased, how, when, and where he came by his death, and if the deceased came by his death by wilful murder, murder, or manslaughter, the person, if any, suspected or accused of having caused such death by such means.

The evidence is put down in writing and attested by the coroner after the evidence is read to the witness concerned.

It is also laid down that the depositions shall be admissible on the trial of any person, subject, of course, to all just exceptions, to the same extent as depositions taken in the petty sessions court on an indictable offence are so admissible.

The Principal Act, it may be mentioned, specially provides that nothing therein contained shall render any person compellable to answer any question tending to incriminate himself or herself.

Power will be given for the coroner to apprehend and to commit for trial any person suspected or accused of wilful murder, murder, or manslaughter in connection with the inquest held by him.

An important provision also sets forth that whenever it can be done the evidence shall be given and all proceedings incidental to commitment for trial shall be taken in the presence of the accused.

This power of committal will only be granted to a coroner who is a stipendiary or acting stipendiary magistrate or a coroner duly appointed for a city; but it will not be given to a justice of the peace where for convenience he is deputed by a police magistrate to hold a specific inquest of a local nature.

It is also provided that nothing shall curtail the ordinary police powers of taking action in indictable offences for wilful murder, murder, or manslaughter without awaiting for the holding of an inquest. Also the police will have this power notwithstanding that the coroner did not so find or commit a person for trial.

A new principle dealing with the holding of inquiries as to missing persons is also enacted in the measure.

Under the existing coroner's law the chief factor of holding an inquest must be the production of a body. Without a body there can be no coroner's inquest. Cases have, however, arisen when persons become missing and no body produced. In some cases only a part of the body is found, but not sufficient in material part to identify the lost person.

It is therefore laid down that where before, on, or after the passing of this amending Act it has been reported to the police that a person is a missing friend and the police have not within a period of twelve months from the report traced the missing person or found his body, and if the coroner to whom the matter is referred is of opinion that an inquiry ought to be held, or if the Minister so directs, or if an authorized person (who is defined later) requests him so to do, the coroner shall have jurisdiction to inquire accordingly. He will inquire into all such matters and things as will or will be likely to reveal whether such missing person is alive or dead and if alive or likely to be alive his or her whereabouts.

In addition to the ordinary powers of summoning a witness it is laid down that any person who has or alleges or has alleged that he has relevant information, or whom the coroner so believes, shall be both a competent and compellable witness both as to knowledge of the information and also of the sources thereof.

The usual powers of examination on oath are prescribed.

At the conclusion the coroner gives his decision or finding and sends the depositions with it to the Minister.

Following the amendment of the Official Inquiries Evidence Act made in 1929 it is specifically laid down that a statement or disclosure made by any witness upon any inquiry under the section in answer to any question put to him by or before the coroner shall not (except in proceedings for an offence against this Act) be admissible in evidence against him in any civil or criminal proceedings.

Hence a witness has full opportunity of giving his evidence and information without incrimination as to subsequent proceedings, if any.

But he must obey the Act and give the evidence, as will be seen in a later section.

The authorized persons are the commissioner or an inspector of police, or husband or wife, father or mother, sister or brother, or son or daughter, or guardian of the missing person.

For instance, the Director of State Children would, as guardian of a State child missing, be an authorized person.

Amendment is also made dealing with provisions relating to a view of the body. The new provision will provide that it shall not be necessary for the coroner on any inquest to view the body of the deceased unless the coroner deems it advisable so to do (following recent South Australian law).

This will obviate reference to the Minister in some cases and also when the cause of death is obviously not suspicious will enable a body to be removed to his home or to the morgue as the case may be.

The practice of summoning the police to be present will no doubt obtain as this is desirable.

S. 11 of the Principal Act allows the Minister or coroner to hold a post-mortem. There, however, is no machinery section to enable this to be done, and cases may arise when some obstruction might obtain.

There will be no possible obstruction in this matter in the future.

Power will be given to the police on the production of the order of the Minister or coroner for the holding of the post-mortem to enter premises and take possession of the body and to have it conveyed to a place suitable for examination and to arrange for a medical officer.

Stringent penalties are provided for obstruction of the police, and also for

removal of the body by any person not authorized before the holding of the post-mortem, with the intent to hinder it from being made.

Provisions also amend s. 15 of the Principal Act which sets out the powers of the coroner over witnesses and the duty of witnesses to attend and give evidence at an inquest. A new provision makes it an offence to refuse to take the oath or be examined.

Special provisions are inserted dealing with inquiries as to missing persons and the duty to appear and give evidence. If a person brought before a coroner refuses without reasonable cause to give evidence or refuses to take an oath or be examined, or when requested fails to produce books and documents or other things which the coroner thinks ought to be produced, such person on failure or refusal to do the same thing at the same inquiry on some subsequent day (whether or not he is fined for the first offence) may be committed by the coroner to gaol until he consents to be so examined.

Other verbal and consequential amendments are also made in the Principal Act.

Criminal Code.—No. 14 is the outcome of certain recommendations made through the Police Department, as well as other departmental suggestions made from time to time.

There has been no departure from the original Criminal Code of 1899 in any of its major principles.

The amendments made are more in the nature of facilitating criminal administration, and at the same time giving further powers to the judges in respect of first offenders' probation, and also in the direction of extending the powers to make further terms and conditions of recognizances on sentences.

The provisions of this Amending Act may be summarized as follows:—

1. *As to arrest without warrant.*—By s. 5 of the Criminal Code it is stated that except where otherwise stated, the definition of an offence as a crime imports that the offender may be arrested without warrant.

S. 3 of the Code defines offences as three kinds, namely: crimes, misdemeanours, and simple offences.

Crimes and misdemeanours are indictable offences, that is to say, the offender cannot, unless expressly stated, be prosecuted or convicted except under indictment; a person guilty of a simple offence may be summarily convicted.

Hence, unless express provision is made, to arrest a person for a misdemeanour, a warrant would be necessary.

Certain offences under this latter head require quick action on the part of the police, and it will be seen that although the offence is a misdemeanour, this Act will now provide that the offender may be arrested without warrant. It is usually at night-time these offences occur when the getting of a warrant may cause delay. The offences are in the main those relating to indecent acts and bodily harm cases.

There are two offences defined as crimes, but the Code expressly provides that the offender cannot be arrested without warrant. These are: S. 349—attempt to commit rape; s. 430—conspiracy to defraud.

It is considered that the police should have the power to arrest without warrant in these cases, and hence ss. 13 and 17 of the Act provide accordingly.

2. *New offences.*—In " motor vehicle cases " where death or bodily harm is caused to a person, it is a matter of difficulty to obtain a verdict of a jury to convict for manslaughter, or, as the case may be, grievous bodily harm or bodily harm.

The English law apparently recognized this matter in its Road Traffic Acts, 1930–1934, and also considered that if *prevention* of the accident by curbing reckless driving could be aimed at, whereby such accidents might be minimised, legislation in that direction was desirable.

Accordingly following the English law, c. 9 of the Act inserts two new sections.

328A. The section provides that if any person drives a motor vehicle on a road recklessly or at a speed or in a manner which is dangerous to the public having regard to all the circumstances of the case, including the nature, condition and use of the road and the amount of traffic which is actually at the time or which might reasonably be expected to be on the road he shall be liable on summary conviction to a fine of £50 or imprisonment for four months; and on a second or subsequent conviction to £100 or four months' gaol, or to both. Or he may be convicted on indictment to a penalty of £500 or to imprisonment for two years or both.

The offender also may be arrested without warrant.

Again, following the English law, there will be a power to convict for reckless or dangerous driving on trial for manslaughter.

328B. Upon the trial of a person who is indicted for manslaughter in connection with the driving of a motor vehicle by him, it shall be lawful for the jury, if they are satisfied that he is guilty of an offence under s. 328A of the Criminal Code to find him guilty of that offence, if such offence is established by the evidence.

A further provision is aimed at prevention of accidents in the future and is based on the existing State Transport Act of 1938, with definite powers to the Court.

The provision is as follows:—

328C. Cancellation of certificate of competency to operate motor vehicle—

Where upon the trial of a person who is indicted for manslaughter in connection with the driving of a motor vehicle by him, the jury finds that such person is guilty of manslaughter, or is guilty of an offence under s. 328A of the Criminal Code the Court, in addition to any sentence it may impose, may order and direct that the prisoner shall, from the date of conviction, be disqualified absolutely from holding or obtaining a certificate of competency to operate a motor vehicle (as referred to in s. 19 of The State Transport Act of 1938) or so disqualified for such period as the Court shall specify in its order. A copy of such order shall be transmitted by the Registrar to the Commissioner of Police and to the Secretary, State Transport Board for any necessary action accordingly.

As to explosives.—A new provision (470A) enacts that any person who wilfully and without reasonable cause or excuse throws down or deposits explosives under such circumstances that it may cause or likely to cause injury to a person or damage to property is guilty of an offence. The misdemeanour will be punishable by two years' imprisonment and the offender also may be arrested without warrant.

As to bigamy.—S. 14.—s. 360. Following the English Criminal Justice Amendment Act, 1914, it is provided that the wife or husband of the accused person shall be a competent witness for the prosecution or defence, but shall not be a compellable witness.

As to incest.—Following the English Punishment of Incest Act 1908, incest of a man with his mother is now included (s. 5). It is also provided (following the English statute) that if a man is convicted of incest or attempted incest on a female under 21 years of age, the Court may deprive him of all authority over the female, including his guardianship, and, if necessary appoint new guardians. (*See* s. 29—Amendment of s. 701 of the Code.)

Following the English law, a mother committing incest with her son will be brought under the law (s. 6), and there is a consequential amendment (s. 24 of the Act) amending s. 636 of the Code as to evidence of relationship, on a charge of incest.

Stealing and receiving.—Criminal Code, s. 391, definition of stealing.

The term "owner" has given difficulty as it is too restricted. It will now (by s. 15 of the Act) embrace the owner or any part owner, or any person having possession or control of, or special property in, the thing in question.

In the case of receiving stolen property (s. 433 of the Code), circumstances arise when an offender would escape punishment owing to the fact that the property in question has since the stealing of it and on receiving it, been converted into something else.

The section has therefore been amended (by s. 18 of the Act) to enact that where the thing received has been converted, whether by sale, mortgage, pledge, exchange, or other disposition, the receiving of the proceeds or part thereof of the conversion, which if received under such circumstances as would constitute the offence if the receiving of the unconverted thing would have constituted an offence, shall likewise constitute an offence.

A consequential amendment is also made in s. 434 of the Code, "Receiving after change of ownership." (*See* s. 19 of the Act.)

Burglary, housebreaking, and the like cases.—There has been legal difficulty in interpreting what a "building" under the relevant sections of the Code—418, 421, and 422—consists of. The point was cleared up in the English Larceny Act of 1916, and this Act follows the extended definition of that Act embracing office, store, garage, hangar, etc. (*See* s. 16 of the Act.)

Defilement of girls under twelve.—S. 212 of the Code. It is laid down to bring the offender under this provision which constitutes a crime and life imprisonment that a prosecution must be begun within two months after the offence is committed.

Two months seems too small, and the time will be increased to six months. (*See* s. 4 of the Act.)

Difficulties of interpretation have also recently arisen.

Indictable and other offences which may be dealt with summarily. S. 443 *and* 480 *of the Criminal Code.*—In the Justices Act Amendment Act of 1942 (s. 2) the law was extended to allow the Justices to deal summarily with a charge under s. 443 of the Code (stealing and like offences) although the six months period had elapsed.

The same amendment Act allowed the Justices to deal summarily where the offence is stealing of property not exceeding £5 in value, and, if the accused person consents, to deal with the charge at the place of arrest or service with summons.

S. 20 of this Act will re-enact these provisions as an addition to s. 443 of the Criminal Code (where they properly should appear). The value £5 will not be increased. Consent, as before, of the accused must be obtained. But in addition to stealing, kindred offences such as obtaining anything by fraud, or fraudulent tricks, receiving under certain circumstances, and killing an animal with intent to steal the carcass, are included. Moreover, if a person pleads guilty where the amount is over £5, the Justices may in like manner deal summarily with the offender if they consider he would be adequately punished on summary conviction. (*See* s. 20 of the Act.)

S. 23 deals with s. 480 of the Criminal Code, and the offences embraced thereunder are damaging property and killing a beast or any animal capable of being stolen.

Elections.—Provision is made by No. 31 that any member of His Majesty's Forces serving with any unit, any discharged member who has served in any of the Forces, and any person employed in the Merchant Marine shall be entitled to vote at any election during the present war and for the twelve months thereafter, as an elector. Any such person shall be entitled to vote irrespective of age and whether enrolled or not. Any person qualified to vote may do so in the following ways: (*a*) If in Queensland—By attending on polling day at any

polling-place in the State and voting either as an ordinary voter or as an absent voter or upon making the required declaration if not enrolled. (*b*) If away from Queensland—(i.) By applying in the proper form for a postal vote to a Returning Officer, any Electoral Registrar, or any specially appointed Assistant Returning Officer; (ii.) By making a nomination appointing some person to vote on his behalf.

Application to vote by post may be lodged at any time, when the Regulations prescribing the form have been gazetted.

Members of the Civil Constructional Corps or any persons employed on any work of defence may also vote by post if away from Queensland. Similarly their applications may be lodged at any time.

When these postal votes are issued by the Returning Officer, any Electoral Registrar, or any specially appointed Assistant Returning Officer, there will be forwarded with the ballot-papers the list of candidates who have been nominated for that district, together with particulars of the parties they represent.

Provision is made that any person who has made a voting nomination and not revoked it in time will be permitted to vote at a polling-booth on polling day if he makes the necessary declaration. This vote will be held until near the end of the count and will be allowed if the person nominated did not exercise the right to vote.

Also, if any elector on war service claims that he did not receive a postal vote he will be permitted to vote under similar conditions.

Married Women's Property.—In 1909, the High Court of Australia, in the case *Brown* v. *Holloway*, decided that since the passing of the Married Women's Property Acts a husband was not liable for his wife's torts (10 C.L.R., p. 89).

The House of Lords, however, in *Edwards* v. *Porter*, 1925, A.C.1, on the corresponding English section, by a majority held that a husband is still liable to be sued with his wife for a tort committed by her during their marriage, unless the tort is directly connected with a contract with her and is the means of enforcing it.

This House of Lords decision, therefore, makes the position in Queensland doubtful.

In England, the position was clarified by an amending Act of 1935.

No. 6, following the Imperial Statute, provides that the husband of a married woman shall not, by reason only of his being her husband, be liable—

(*a*) in respect of any tort committed by her whether before or after marriage, or in respect of any contract entered into or debt or obligation incurred by her before the marriage, or

(*b*) to be sued or made a party to any legal proceeding brought in respect of any such tort, contract, debt or obligation.

Matrimonial Causes.—Provision is made by No. 20 whereby if any person seeking a decree of dissolution alleges to the Court that the other party has continuously deserted him or her for five years and that the other party is able to secrete herself or himself or keep herself or himself out of the way, and has in fact done so, whereby he or she cannot be found, the Court may dispense not only with the service of the petition, but also with the service of the writ.

Following English law provision is also made that if any married person alleges that reasonable grounds exist for supposing that the other party to the marriage is dead he or she may present a petition to the Court to have it presumed that the other party is dead and to have the marriage dissolved, and the Court if satisfied that such reasonable grounds exist may make a decree of presumption of death and dissolution of the marriage. In such proceedings, the fact that for a period of seven years or upwards, the other party to the marriage has been continually absent from the petitioner and the petitioner has no reason to believe that the other party has been living within that time shall be evidence that he or she is dead until the contrary is proved.

Such dissolution will be a decree nisi in the first instance, and will hence be in the same position as ordinary divorce actions.

Mortgagors and Other Persons Relief.—The object of No. 11 is to extend and amend the Mortgagors Relief Acts, 1931–32.

These Acts were passed to afford relief to mortgagors during the depression; the Acts have been continued from year to year.

The amending Act will be a relief to mortgagors through detriment caused by the war. The measure will operate as from March 1, 1943.

The same principles obtaining in the Principal Act will apply for applications for relief under this measure. But one new feature is provided. A person, not only a mortgagor, but any house-owner, who, owing to financial straits through the war, cannot pay his rates due to a Local Authority will have an opportunity to apply to the Court for relief.

He will also be given this rate relief in any case where under the Principal Act he could have got relief as a mortgagor.

This relief for rates was wanting in the Principal Act, and certain cases of hardship have come under notice.

The Supreme Court will be the relief Court; but where under the Principal Act a mortgagor can have his case heard by a Stipendiary Magistrate, he can apply at the same time for rate relief.

The Stipendiary Magistrate also will be the Court where the amount of unpaid rates does not exceed £200.

It may happen that, apart from the war, the aftermath caused by the depression may still exist. These cases hence are provided for as well as additional rate relief.

Succession.—No. 28 makes important amendments in the law of succession to property:—

1. The Act alters the present law under the Statute of Distributions—

(*a*) Where a person dies intestate leaving a wife (or husband) and only one child, instead of the child getting two-thirds and its surviving parent one-third, each will under the Act get one-half of the estate.

(*b*) Places the father and mother on the same plane in regard to an intestate leaving no widow (or widower) or lineal descendant. Instead of the father getting the whole estate, the father and mother each to get one-half.

(*c*) Similarly, where the father only survives his intestate child leaving no widow (or widower) or children, the father gets the whole estate; and where the mother only survives, the mother gets the whole estate.

(*d*) Where the intestate dies leaving a widow (or widower) but no father and no mother, and no children, or next-of-kin, the whole estate goes to the widow or widower. Previously there was an escheat to the Crown of a portion of the estate.

2. At present where an intestate dies leaving a widow (or widower) but no issue and no widowed mother surviving her or him, the widow or widower gets a first charge of £500 of the estate with capacity to share in the remainder. This measure will increase that charge to £1,000.

3. As to illegitimate children:—Following on the principle laid down in The Testator's Family Maintenance Act Amendment Act of 1943, this Act will likewise give an illegitimate child (not otherwise adopted) the right to approach the Court for maintenance and support out of the estate. For this purpose the distribution under the Statute of distributions is dealt with as if such distribution were made by the intestate under a will.

The same principles will obtain in any such illegitimate child applying to the Court as in the Testator's Family Maintenance Act; but the priority rights as aforesaid of widow or widower are preserved.

4. However, in estates not exceeding £200, where the intestate dies being a

widow or widower or unmarried person and leaving no lawful issue but an illegitimate child or children, instead of applying to the Court, the Public Curator, if satisfied on the evidence, can distribute the estate to the illegitimate child, or, if more than one, between such children in equal shares.

And where a child born out of wedlock, being a widow or widower or an unmarried person, dies without leaving a will and without leaving any children (legitimate or illegitimate) but leaving a mother surviving him or her, the mother is entitled to the estate and the Public Curator can distribute accordingly.

Consequential amendment also made in the Public Curators Act.

Testators' Family Maintenance.—In 1914 the Principal Act was passed providing that where a testator died leaving a will without making adequate provision for the support of the testator's wife or husband or children, the Court on application on their behalf may order that provision be made out of the estate of the testator for such support or maintenance.

The Court, of course, can grant the application and make the order subject to terms or may refuse to make it.

The original Act only refers to a "child" which is a child born in lawful wedlock. It does not include an illegitimate child.

The amending Act (No. 4) brings under its scope an illegitimate child and allows him or her to approach the Court for an Order of Maintenance.

If the illegitimate child, however, is 21 years or over he or she has to show that he or she is a person who during the testator's lifetime had helped to build up and/or conserve his parent's estate.

And whether the child is under or over 21 years the Court must be satisfied as to evidence of paternity and evidence that the child was recognized or acknowledged by its parent as his or her offspring during his lifetime.

Doubts may arise as to the position of adopted children or step-children; these are also brought in under the definition.

The provisions of the Principal Act as so amended shall apply and extend to the estate of testator whenever dying but where probate is granted after the passing of this amending Act.

As to step-children or adopted children if the Court has already so made a judgment it stands; and the provisions are in addition and not in derogation from the Principal Act. Orders already made under the Principal Act are preserved.

Land.—No. 16 makes various amendments in the Principal Land Acts.

One principle of the measure is aimed at the conservation of water and watercourses, the preservation of timber and the prevention of the erosion of land.

Special attention is given to restriction and control of ringbarking and the felling of trees situated within or within 44 yards of the bed and banks of watercourses. There will be an absolute prohibition of such ringbarking along such watercourses and streams unless a permit is obtained from the Land Commissioner in accordance with the Act. Where land is to be cultivated within the bed and banks and within the limits set out in the measure it will be necessary for the landowner to obtain the necessary permit from the Land Commissioner to destroy and remove the timber so that the land may be cultivated. The provisions apply irrespective of the tenure under which the land is held.

Another provision enacts that except in any inquiry, investigation or other proceedings by way of action between subject and subject the Court may, if it thinks fit, take evidence of its own motion. In other words, where there is an action between subject and subject the onus shall be on the individual parties to the case to call their own evidence.

It is also provided in the measure that in determining the rent of pastoral holdings the Court shall not determine such rent at an amount less than the

rent payable for grazing selections comprised of lands of similar quality in the same neighbourhood.

Another provision deals with the recovery of penalties inflicted as the result of fraud committed against the Land Acts. Such penalty is deemed a debt due to His Majesty and if the lessee so liable dies before payment of the debt his estate shall be liable therefor.

There is also a change in the law of adverse possession. The new provision following recent New South Wales law will protect the Crown against any claim made against the Crown by persons or groups of persons seeking titles to land by reason of occupation for a period of 60 years or more. The measure provides that this claim cannot be asserted or established against Crown lands.

A minor amendment is made in the Rabbit Acts. The elections for 1942 were postponed. It has been decided to hold an election in 1943, but to continue the rotation of retirement as would have occurred in 1942 if an election had been held in that year. This measure will provide for this matter.

Land and Water Resources.—The object of No. 38 is to "plan, co-ordinate, and provide for the development and use of the Land and Water Resources of the State in a manner best calculated to increase the population, settlement, and development of the State generally and to secure its civil defence and economic well-being.

1. The reasons for the Act are, briefly:—

(*a*) The area of the State is 670,500 square miles. The stable population is 1,037,000, or less than 2 to the square mile.

Notwithstanding climatic vagaries, there should be considerable room for a great increase of population living in sound economic conditions.

(*b*) The greater part of the land of the State is held privately, either under freehold or freeholding tenure, or under Crown lease holdings. A considerable area of these private holdings, much of which is probably capable of production, is undeveloped.

(*c*) The State has expended large sums on railways, roads, schools, and other public amenities in country areas. The development of country lands should keep pace with public expenditures.

(*d*) The natural water resources of the State are probably not adequate for the full development of country lands on modern agrarian production methods. Moreover, these natural waters are subject to the ravages of drought and the denudation caused by man's occupation of the lands.

(*e*) At the end of the war there will be heavy demand for land which the Crown is not, to any appreciable extent, in a position to satisfy.

2. The Act proposes to give effect to the following principles:—

(*a*)—

(1) The establishment in the Department of Public Lands, as a State instrumentality continuously functioning, of an Investigation Bureau in connection with land and water resources, and the development thereof.

(2) The establishment of an Advisory Committee or Committees to further the object of the Act—namely, to plan development of Crown land and water resources of the State.

(*b*) The preparation of a plan based on the investigations of the Investigating Bureau for the development of land and water resources.

(*c*) The more intensive use and development of the undeveloped land of the State, either freehold or Crown lease, within the framework of the plan.

(*d*) The declaration of development areas under the measure and the control of subdivision and transfer of lands within any development area.

3. The Act, which is divided into six parts, is of a declaratory nature, giving the legislative authority for carrying into effect the principles enunciated.

Part 1 is merely the usual preliminary provisions regarding objects of the Act and definitions.

Part 2 is concerned with the following arrangements:—

(*a*) Preparation by the Land Administration Board of a complete description and record of the State's natural water resources to enable plans for the conservation, replenishment, ultilization and distribution of such waters to be formulated, and to secure the most effective use of land resources, and to assist in large-scale employment finding.

(*b*) The establishment in the Department of Public Lands of a Bureau of Investigation of not more than five persons under the Land Administration Board.

(*c*) The establishment of an Advisory Committee or Advisory Committees to further the objects of the Act.

(*d*) To provide the legislative machinery for the Board and the Bureau to carry out the required investigations.

(*e*) To require the Land Administration Board, through the Bureau, to carry out a continuous investigation of the development of the lands of the State with the objects of—

(1) Classifying the lands in each district.

(2) Continuously recording economic developments in each district.

(3) Continuously recording physical land and water developments in each district.

(*f*) To require all Departments and Crown instrumentalities to co-operate with the Bureau.

(*g*) To require the Land Administration Board to submit an annual report to Parliament, giving—

(1) Particulars of the results of the Bureau for the previous calendar year; and

(2) Details of investigations and surveys made during the previous year, together with such recommendations as may be desirable for the accelerated and increased economic and physical development, or the capacity to provide increased employment of the lands and waters of the State or any district.

Part 3 provides for the planned development of the natural land resources of the State. It requires—

(1) The Land Administration Board, from time to time, to prepare and submit to the Minister recommendations respecting the physical and economic development of all or any of the lands of the State, or respecting the acceleration of the physical or economic development of all or any of such lands.

(2) That the Board may, with the approval of the Minister, notify any owner of freehold or any lessee of a Crown holding that he is not satisfied that such freehold or holding has been or is being developed and brought to production in a manner conducive to the best public interest.

(3) That the Minister may serve a notice on an owner of freehold or Crown lessee requiring him to satisfy the Minister that he has plans for the immediate development of his land, and that he will be financially and otherwise able to develop it in a time and in a manner satisfactory to the Minister.

(4) If the Minister is not so satisfied, the whole or any part of such lands may be resumed by the Crown and dealt with under the Land Acts for settlement.

Part 4 provides for the planned development of the natural water resources of the State. It requires—

(1) The Commissioner of Irrigation and Water Supply to submit to the Minister a plan for a co-ordinated programme (based on the investigations of the Investigating Bureau) of Works for conserving, replenishing, utilizing, and distributing the natural waters of the State for all purposes except town purposes, with recommendations for the orderly carrying out, in periods, of the whole or any of the works in the programme.

(2) That water supply, irrigation, water conservation, and water distribution undertakings up to £125,000 may be established under this Act.

Part 5 deals with the financial provisions. It provides for the establishment of a State Land and Water Resource Investigation and Development Fund in the Treasury.

Part 6 contains general provisions as follows:—

(1) The Minister, on the recommendation of the Board, to have power when any water undertaking is being provided, to require landholders to bring any suitable land into production by ringbarking, scrub felling, clearing, stumping, grading, water reticulation or conservation, cultivation, conservation of fodder and construction of silos, and for this purpose to advance funds in co-operation with the Rural Development Bureau.

(2) The Minister, with the approval of the Governor in Council, shall have power to declare any part of the State to be a " development area " and to define the boundaries thereof. In any such area it is to be declared unlawful to subdivide and sell or lease any area without the approval of the Minister. The Minister, on the recommendation of the Land Administration Board and with the approval of the Governor in Council, may by regulation determine the minimum areas into which land may be subdivided in any development area.

The Minister may direct the Land Administration Board to recommend the maximum price or rent for which any parcel of such land may be sold or leased. Provision is made for the Minister to refer any particular case where he is not satisfied with the Board's recommendation to the Land Court for determination.

The machinery provisions of the Bill are relegated to the Schedule.

Schedule 1 sets out the procedure for the establishment of a water supply, irrigation, water conservation or water distribution undertaking. It provides for—

(*a*) Public notice to be given of the proposal to allow of lodgment or objections. The Governor in Council, after such inquiry, to have power in his absolute discretion to approve or disapprove of the scheme.

(*b*) That the Land Administration Board shall be the General Irrigation and Water Supply Board of the State and each individual undertaking shall be administered by the Board in accordance with the provisions of the Water Acts; the rating powers of Boards under those Acts to be conveyed to the Board under this Act. Differential rating according to the use made of the land is provided for; all officers of the Department of Public Lands, Survey Office, Forestry, and Irrigation to be deemed to be officers of the Irrigation and Water Supply Board.

4. SOUTH AUSTRALIA

[*Contributed by* E. L. Bean, Esq., M.A., LL.B., *Parliamentary Draftsman.*]

The South Australian Statute Book of 1943 showed little sign that Australia was at the end of the fourth year of World War II and that the Japanese were still close to her northern shore. With the exception of the Commonwealth Powers Act and the War Service (Preference in Employment) Act the legislation might have been passed in peace-time. One notable feature of current statutes, how-

ever, is the absence of income tax laws. The "Uniform Tax" system, under which all Commonwealth and State income taxes are merged into one tax levied by the Commonwealth, is firmly established and it is doubtful whether State Parliaments will again impose income tax.

There were 40 Acts passed in the Session of 1943, of which the following are the more important.

Adoption of Children.—No. 18 provides that in proceedings for adoption the court may require a medical certificate setting out the results of a general medical examination of the child, the applicant, the husband or wife of the applicant, or any of them.

The Act also provides for the making of arrangements between South Australia and any other State or Territory of the Commonwealth, under which orders of adoption made in one State or Territory may be transmitted to and recognized in the other State or Territory.

Commonwealth Powers.—No. 3 had its origin in the efforts of the Commonwealth to secure additional powers for post-war reconstruction. In October, 1942, the Commonwealth Government introduced a Bill for the amendment of the Commonwealth Constitution. This Bill by carefully chosen language proposed unlimited legislative powers for the Commonwealth Parliament. It was unification at one blow. As opposition grew, the Commonwealth withdrew this Bill and held a conference with the State Governments with the object of persuading them to secure the passage of State Acts referring to the Commonwealth additional legislative powers pursuant to s. 51 (XXXVII) of the Constitution. The conference was held in November, 1942, and its members agreed on a draft Bill which was to be introduced and passed in the same form in each State Parliament. Unfortunately for the Commonwealth, the State Parliaments, though they passed the Bill, did not turn out a uniform product. South Australia, Victoria, Tasmania, and Western Australia made substantial and different amendments. The Commonwealth, not being satisfied, again introduced its own Bill for increased powers, but it was not accepted by the electors at a referendum. The State Acts, however, are of interest and importance. The following are the main powers referred to the Commonwealth by the South Australian Act:—

(*a*) *Repatriation Power.*—The Commonwealth already has power to legislate for the repatriation of ex-members of the fighting forces by virtue of the defence power; but Commonwealth Ministers profess to be doubtful about this power and therefore asked that the Federal Parliament should be granted express power to legislate for the reinstatement and advancement of ex-members of the fighting services and the advancement of the dependants of deceased members of fighting services. The South Australian Act grants this power in the form agreed on at the conference, except that Parliament extended it so that it applies not only to this war but to any war.

(*b*) *Employment and Unemployment.*—The Conference agreed that the States should grant to the Commonwealth a general legislative power over "employment and unemployment." The South Australian Parliament, however, amended this so as to provide that the power should be limited to the employment of unemployed persons on national works, public works, and local government works and the relief of unemployed persons by grants and loans of money and goods and by unemployment insurance and occupational training.

(*c*) The Conference agreed that the States should grant the Commonwealth power to legislate for the organized marketing of commodities. The South Australian Parliament, however, altered this power so that it applies only to commodities of which there is normally a surplus exported from the Commonwealth.

(*d*) The South Australian Parliament deleted altogether the power agreed on

at the conference under which the Commonwealth could pass uniform company legislation and regulate trusts, combines, and monopolies.

(*e*) The Conference agreed to grant the Commonwealth power over "profiteering and prices." This was altered by the South Australian Parliament to a power for "the regulation and control of prices in connection with transactions occurring within three years after the cessation of hostilities," subject to the condition that no Federal law made under this power should come into force until approved by the Governor in Council of the State.

(*f*) The Conference agreed that the Commonwealth should be given power to legislate respecting the production and distribution of goods, subject, in the case of a law affecting primary production, to the consent of the State Government. The South Australian Parliament, however, altered this to a power to legislate for the encouragement of production and the establishment of new industries, and for the continuance of industries carried on by the Commonwealth at the cessation of hostilities.

(*g*) The Conference agreed that the Commonwealth should be granted power to legislate for the control of overseas exchange and overseas investment and for regulating the raising of money. The South Australian Parliament altered this to a power to legislate for the control by the Commonwealth Bank of the rate of overseas exchange and of rates of interest.

(*h*) The Conference agreed that the Commonwealth should be given power to legislate for the uniformity of railway gauges. The South Australian Act, however, now provides that the Commonwealth shall have power to legislate for the conversion of any railway of the State to the uniform Australian gauge on terms approved by the State Parliament.

(*i*) The Conference agreed that the Commonwealth should be given power to legislate as to national health. The South Australian Parliament imposed on this power a condition that no law made under this power should come into force until approved by the Governor in Council.

In addition to these matters, the Act confers on the Commonwealth powers as to air transport, family allowances, and people of the aboriginal race.

Constitution.—Act No. 41 gives the vote for both Houses of Parliament to every person who during a war has served as a member of a naval, military, or air force of the Commonwealth, by virtue solely of such service, and irrespective of age or property qualification. The franchise is also granted to persons who, whilst domiciled in South Australia, have been engaged in sea-going service on a ship during any war in which the Commonwealth is engaged. The franchise granted by this Act can only be exercised if the voter is enrolled in an electoral sub-division in which he has lived continuously for a month or, in the case of a person who is absent on war service, in a sub-division in which he lived for a month before he commenced that service.

In order to qualify for the franchise on the ground of war service a person must either have served outside the Commonwealth or in an evacuated area, that is to say, an area from which the civil population has been compulsorily evacuated.

The Act also deals with the subject of disqualification for voting at Legislative Council elections. Under the previous law a person was so disqualified for treason, felony, or infamous crime; but no disqualification was imposed for crime other than "infamous" crime or for mental defect. The Act adopts in relation to the Legislative Council the same disqualification as applies to the House of Assembly, namely, that a person will be disqualified from voting at council elections if he is under sentence or subject to be sentenced for any offence punishable by imprisonment for a year or more, or if he is of unsound mind.

Crown Lands Development.—No. 20 introduces a new principle into the settlement of Crown lands. Formerly Crown lands were allotted in an un-

developed condition; and development of each block was carried out separately by the allottee, usually with financial help from the Government. Under this Act, however, the Government is given power to prepare areas of land for settlement by clearing, draining, cultivating, sub-dividing and fencing, providing water, and erecting buildings. The land may then be allotted to settlers in its improved condition. All land so allotted will be held under a special form of perpetual lease containing terms, covenants, and conditions recommended by the Land Board and approved by the Commissioner of Crown Lands. The land will not be allotted on agreement for sale and purchase, as other Crown land is; but after a person has held land allotted under the Act for ten years he may apply to purchase the fee simple. The terms and conditions of purchase will be fixed by the Land Board.

Electricity.—No. 31 provides for the establishment of an Electricity Commission and confers on it certain powers in relation to the generation and supply of electricity. The Commission is a body corporate consisting of three persons, one being a full-time member of the public service. The duties of the Commission are to investigate the supplies of electricity within the State and to consider the possibilities of improving, increasing, and cheapening them, to survey the coal deposits and other fuel within the State, and to advise the Government generally upon problems relating to electricity. The Commission has wide powers to take evidence and secure information. The Act requires suppliers of electricity to be registered with the Commission. It also requires every person who proposes to construct or extend plant for the generation of electricity, to give notice to the Commission. The Commission is given power to make requests to suppliers of electricity on any matter relating to the generation, storage, distribution, and supply of electricity. The Commission has no power to enforce compliance with its requests; but if a supplier does not accede to the request or give an answer to it within a time fixed for the Commission the Commission is required to make a full report to the Treasurer upon the request and all matters connected therewith. The report must be laid before Parliament.

The administration of the Electrical Articles and Materials Act, 1940, the purpose of which is to promote the standardization of such articles and materials, is committed to the Commission.

Food and Drugs.—No. 21 makes a number of amendments to the law relating to food and drugs.

It is made an offence to sell or despatch on sale any article of food or drug which is adulterated, or packed, labelled or branded contrary to the Act, whether the actual sale is effected or is to be effected in South Australia or elsewhere.

The law relating to the giving of warranties is revised and it is provided that a person who purchases any article of food or drug for re-sale may demand from the vendor a warranty that the article complies with the relevant requirements of the Food and Drugs Act. A vendor who refuses to give such a warranty is guilty of an offence.

The Act provides that regulations may be made prescribing the form of advertisements relating to the sale of any articles of food and drug, including patent medicines and proprietary articles. "Advertisement" includes, among other things, a broadcast advertisement.

Health.—No. 13 provides that, if a medical practitioner treats a patient suffering from tuberculosis of any kind, he must give notice thereof to the local board of health. Formerly, only cases of pulmonary tuberculosis were notifiable in this manner.

Industrial Code.—No. 32 imposes on occupiers of factories the duty to provide meal-rooms, drinking water, washing facilities, locker accommodation, dressing rooms for women, first-aid equipment, and seating accommodation for females at the rate of one seat for every three women employed.

Industries Development.—No. 23 sets aside the sum of £100,000 out of the surplus revenue for the State for the year 1942–1943, to form the nucleus of a Country Secondary Industries Fund. This fund will be used for the purpose of assisting the establishment or extension of secondary industries outside the metropolitan area, and for financing experiments and research relating to any such industries.

Interstate Destitute Persons Relief.—Under the principal Act of 1919 it is enacted that the provisions for the reciprocal inter-State enforcement of maintenance orders do not apply to maintenance orders made by a "court of record." It was apparently considered by those who framed the principal Act that a court of summary jurisdiction was a court not of record, and that the Act would apply to orders of a court of summary jurisdiction, but not to those of the Supreme Court. It is now clear law, however, that a court of summary jurisdiction is a court of record, and therefore the principal Act does not apply to the very courts for which it was designed. No. 14 therefore amends the principal Act retrospectively, so that it will apply to the orders of courts of record. The Act also provides that in proceedings under the principal Act the earnings of a person may be proved by a statutory declaration, and that an order enforceable under the principal Act may be enforced by any methods available under the Justices Act, 1921–1936, or the Maintenance Act, 1926–1936.

Justices.—No. 24 makes a number of amendments to the law relating to justices and courts of summary jurisdiction. It provides that the roll of justices, which was formerly kept in the Supreme Court, shall in future be kept by the Attorney-General. The procedure for removing justices from the roll on the ground of bankruptcy, conviction, or mental defect is prescribed in detail. Under the previous law a justice automatically lost his seat on the happening of the prescribed circumstance; but under the Act his name will be formally removed from the roll by the Attorney-General on the direction of the Governor, and the removal will have effect only upon notice of it being published in the *Gazette*.

S. 5 of the Act gives the court wide powers of remitting, suspending, and reducing the liability of persons liable upon recognizances and securities under the principal Act. The main type of recognizance to which these provisions apply is the bail bond conditioned for the appearance of a defendant in court.

S. 6 of the Act provides that charges for any number of offences may be joined in the same complaint if the charges arise out of the same set of circumstances. It is also provided that charges may be stated in the alternative in the complaint.

Another important amendment of the law is in s. 12 of the Act. Under the present practice upon a complaint for a minor indictable offence (that is to say, an indictable offence which may, at the discretion of a court of summary jurisdiction, be dealt with summarily) the court is in every case required to hear the evidence for the prosecution before taking the defendant's plea. S. 12 provides that a justice can take a plea of guilty without hearing any evidence.

Legal Practitioners.—No. 15 makes permanent a scheme, which was previously temporary, and under which portion of the revenue received by the Crown from annual fees payable by legal practitioners, will be devoted to the expenses of a law library maintained by the Law Society for the use of practitioners and other persons.

Life Assurance Companies.—No. 6 suspends for the duration of the war the obligation of life assurance companies to furnish to the Registrar of Companies periodical returns as to their revenue, expenditure, and policies in force.

Lottery and Gaming.—No. 11 provides that licences for the use of the totalisator at trotting races held during daytime may be granted. Under the Lottery and Gaming Act, 1936, licences could be granted for the use of the totalisator at trotting races only if the races were held in the evening; but owing to restrictions imposed under the laws of the Commonwealth it is not now

possible to hold such races in the evening. The Act also extends the turnover tax on bets from £1 per cent. to £1 10s. per cent. and provides that all the racing clubs which under the principal Act shared in the proceeds of the turnover tax will contribute rateably to the expenses of the Betting Control Board. Formerly the whole expense of maintaining this Board fell upon the Treasury.

Mortgagors Relief.—No. 25 extends for a further two years the provisions of the Mortgagors Relief Act under which a mortgagor may, upon application to the court, obtain postponement of his obligation to repay the principal moneys due under his mortgage.

Noxious Trades.—No. 34 repeals the existing provisions of the Local Government Act and the Health Act, 1935, on the subject of noxious trades, and enacts new provisions for the control of these trades.

The Act applies within the metropolitan area of Adelaide and such other parts of the State as are proclaimed. It enacts that noxious trades, and noxious trades areas, and the noxious trades which can be carried on in any area, are to be declared by regulation and that no person may carry on a noxious trade unless licensed by the appropriate local board of health.

A licence must be granted if the noxious trade is to be carried on in a noxious trades area and is one which under the regulations may be carried on in that area, if the premises are suitable for the purpose, and if the local board is satisfied that the trade will be carried on in accordance with the regulations.

Provision is made for existing noxious trades, the premises of which are not situated in a noxious trades area. In such a case a licence may be obtained, but after the lapse of five years the Minister may direct that no further licence is to be granted, in which event, if the noxious trade is moved into a noxious trades area, the Government may make a grant towards the cost of removal.

Licences are to be issued annually and there is an appeal to the Central Board of Health from any refusal of a local board of health to grant a licence.

A person carrying on a noxious trade under licence is protected against actions for nuisance.

The Governor is given power to make regulations prescribing the manner in which noxious trades are to be conducted.

The Act applies to the Government and public authorities.

Police Pensions.—No. 16 deals with the rights under the police pensions scheme of junior constables who enlist in the armed forces. Junior constables do not become members of the police force until they attain the age of 21 years and take the police oath. Some of these junior constables have attained the age of 21 years whilst absent on war service, and, as they have not taken the oath, they have not become members of the police force. The Act provides that, for the purpose of the Police Pensions Act, 1929, a junior constable serving in the armed forces will, whether he has taken the oath or not, be deemed to be a member of the police force from the time he attains the age of 21 years, and will thus become entitled to the benefits given under that Act.

Primary Producers Assistance.—No. 26 deals with the future administration of the Farmers Assistance Act and the Primary Producers Debts Act. The Farmers Assistance Act is the Act under which seasonal advances are made by the Government to farmers who are unable to obtain them from banks or other financial institutions; and the Primary Producers Debts Act is the Act under which farmers may, on application to a Government authority, obtain protection against their creditors and reduction of their debts, and in some cases financial assistance in order to pay off their debts. Both Acts were formerly administered by a board of five called the Farmers Assistance Board, assisted by a large Government department. This work has, however, decreased very considerably owing to the improved position of farmers; and changes in the administration have been found necessary. Act No. 26 provides that in future both of the

Acts mentioned will be administered by the Treasurer with the assistance of a committee of three, to be called the Primary Producers Assistance Committee.

In addition the Act prescribes what money will in future be available for farmers' assistance and debt adjustment. Farmers' assistance will be granted out of a Treasury fund to be called the "Farmers Assistance Fund," which will consist of the balance of the money voted by Parliament in the past for farmers' assistance, and of the repayments made by farmers in the future. Debt adjustment will in future be financed out of a fund called the "Primary Producers Debts Adjustment Fund." This consists of the money at present held in the Treasury for the adjustment of farmers' debts and all money received in future from the Commonweaith for this purpose, and all money received from farmers in repayment of loans and grants.

Public Parks.—No. 27 authorizes the Government to acquire land compulsorily or by agreement for the purpose of providing parks and open spaces. Any land so acquired may be transferred to a local government authority upon such terms as are fixed by the Minister.

Road Traffic.—No. 35 makes a number of miscellaneous amendments to the Road Traffic Act, the principal of which are as follows:—

The 25 per cent. reduction in the registration fee for motor vehicles is continued until September 1, 1944.

Primary producers are given the privilege of surrendering registration of a tractor at any time and obtaining a refund of the unexpired part of the fee.

In certain circumstances traders' plates issued to individual traders are allowed to be used on motor-cars and buckboards while they are being driven for any purpose whether connected with trade or not. The fee payable for traders' plates is reduced by 25 per cent. for the period ending August 31, 1944.

The Act also provides that if the law as to compulsory motor insurance is altered so that motorists must carry any different form of insurance, all policies in force at the time of the amendment are deemed to be altered so as to provide the altered type of insurance. The Act further declares that a compulsory motor insurance policy will not be affected by any change in the ownership of a vehicle.

It is made an offence to drive a vehicle other than a motor vehicle, while under the influence of intoxicating liquor or a drug.

Sale of Goods.—No. 36 makes a minor amendment to the Sale of Goods Act. When goods are sent by the seller to the buyer by sea transit the seller must, as a rule, give the buyer sufficient notice to enable the buyer to insure the goods. This amending Act, however, prescribes that where the buyer is not a wholesale or retail trader, and the goods exceed £10 in value, and are sent by the seller to the buyer by a route beginning and ending in the State and involving sea transit, the seller may insure the goods on behalf of the buyer and recover the cost of so doing from the buyer. If the seller does not so insure he must give the buyer notice sufficient to enable the buyer to insure the goods, and the notice must state that the seller has not insured. If the seller fails to comply with this latter requirement the goods are at his risk.

Sandalwood.—No. 7 extends for a further three years the operation of the legislation controlling the cutting of and trading in sandalwood.

Settled Estates.—No. 17 provides that on the sale of settled land the proceeds may be invested in trustee securities. Formerly the law required that such proceeds should be invested in land to be settled upon the same trusts as the land which was sold.

Soil Conservation.—No. 37 empowers the Minister of Agriculture to require the owner or occupier of any land to take measures to prevent soil erosion,

The Minister is also empowered, for the purpose of preventing soil erosion, to prohibit the driving of stock over any stock-route or land.

It is provided that trees on roads outside municipalities are not to be cut down or injured except with the consent of the Minister.

Succession Duties.—No. 28 provides that every covenant to pay money, which confers complete ownership of the debt thereby created and diminishes the covenantor's assets by the amount of the debt, is to be deemed to be a disposition of property within the meaning of the Succession Duties Act, 1929.

The exemptions from payment of succession duty in respect of the estates of persons who die on or as the result of war service are extended to include cases where property is derived from an illegitimate person by his mother, brother, or sister, and where property is derived by the illegitimate child of a female member of the forces.

Testator's Family Maintenance.—No. 29 extends the classes of persons who may apply for maintenance out of the estate of a testator. Under the principal Act adopted children and illegitimate children are not entitled to apply. Under this amendment, legally adopted children and illegitimate children are given the right to apply. An illegitimate child, however, cannot apply unless the testator is his mother, or his relationship to the testator has been evidenced in the testator's lifetime either by an affiliation order, or a maintenance order, or an agreement by the testator to maintain him, or by the fact that during his lifetime the testator lived with and maintained him. The Act also empowers the divorced wife of a testator to apply for maintenance out of his estate if at the time of the death she was receiving or entitled to receive maintenance from him. The Act also provides that the time for making applications (at present six months after probate) may be extended by the court; but the application for extension must be made within twelve months after probate.

War Service (Preference in Employment).—No. 38 provides that preference in Government employment will be given to members and ex-members of fighting forces and persons who during the war have been employed in sea-going service in the mercantile marine. The Act applies to members and ex-members both of the Commonwealth forces and of forces of any other part of His Majesty's Dominions. The preference to be given is not absolute; but the Act states that preference must be given to the persons mentioned unless " reasonable and substantial cause " exists for not doing so.

Workmen's Compensation.—No. 39 makes some miscellaneous amendments to the principal Workmen's Compensation Act. Under the present law the weekly payment during incapacity is made up of a payment based on the workman's earnings, plus 7s. 6d. a week for each child of the workman under 14 years of age. The Act alters this so that the payment of 7s. 6d. a week will be granted for each child under 16 years of age.

The existing provision of the principal Act which allows an aged and infirm worker to make a special agreement with his employer as to a reduced amount of compensation is modified by the enactment of a proviso that no such agreement will have any effect if the workman is over 60 years of age and has been in the employment of his employer for five years or more.

The Act further deals with the question of double benefits. Under the principal Act an employer was entitled to deduct from the amount of compensation the value of any other payment, allowance, or benefit received by the workman from the employer during the incapacity. The amending Act provides that a pension received on retirement shall not be a payment, allowance, or benefit which is deductible from the amount of compensation.

A further provision deals with the right of a workman to costs where disputes are settled out of court. If a workman has been in receipt of weekly payments under the principal Act, and the payments have been discontinued by the employer, but are subsequently resumed, the workman is declared to be entitled to reasonable legal and medical costs, even if the matter has not resulted in legal proceedings of any kind.

5. TASMANIA

1942

THE 71 Acts which received the Royal Assent between February 24 and November 16 consisted almost entirely of minor amendments.

Homes.—By No. 3 an unspecified Minister was authorized to make arrangements with the War Workers' Housing Trust established by the Commonwealth for the provision of homes for persons engaged on war work in Tasmania. The Treasurer was empowered to borrow £120,000 for the purpose. Small amendments were made by No. 66.

Education.—The Education Act 1942 was somewhat unusual in its form. It contained three sections. The first embodied the short title, the second repealed s. 4 of the Education Act, 1939, and the third repealed the Education Act, 1940. There was, therefore, no positive enactment contained in it.

Flood Sufferers' Relief.—No. 15 was rendered necessary by the losses suffered through the damage to crops by flood or abnormal rain which occurred during the month of December, 1941. Its purpose is to provide relief for the primary producers affected by it.

Dehydration.—The establishment of an industry for the dehydration of vegetables is authorized by No. 16. It authorizes the Agricultural Bank of Tasmania to acquire the business established by Mr. D. H. Malcolm, who was a public servant and engaged in the dehydration of food under the style of Dewcrisp Dehydrators. On his death his widow sold the business to the bank acting on behalf of the State.

Ship Building.—A Board is constituted by No. 35 for the construction of wooden ships and has to consist of the Director of Public Works, a civil engineer, a master shipbuilder, a representative of the Area Board of Management, and a person experienced in the timber industry. The administration of the Act is entrusted to the Minister of Agriculture.

Apprentices.—No. 37 is a comprehensive measure to encourage, regulate and control the employment and training of apprentices in certain trades to be specified by proclamation. It will be carried out by a commission of five persons appointed by the Governor, of whom one, the president, is to be a person of approved administrative ability and with the general knowledge of industrial matters. Of the remaining members two shall be appointed as representing employers and two as representing employees respectively and nominated by the organized bodies thereof.

Marriage.—No. 53 repeals the previous Acts of 1874, 1895, 1896, 1924, and consolidates the whole of the existing matter with amendments.

Entertainments Tax.—The Amusement Duties Act of 1942, together with the principal Act of 1916 is suspended by No. 55 in order to carry out the agreement with the Commonwealth in reference to the taxation of entertainments.

1943

THE first of the Acts passed in 1943 received the Royal Assent on April 19. Altogether 69 Acts received the Royal Assent during that year and the Session was continued in 1944 with the following enumeration:—

Public Records.—Although No. 2 is described as a measure to provide for the disposal of public records, its purpose is to that of the appointment of competent archives officers. Measures will be taken to secure that there is adequate control or custody of records which may be of permanent value.

Commonwealth Powers.—No. 3 carries out an agreement made between the Commonwealth and the States in reference to the collection of income tax.

Rural Industries.—Provision is made for the establishment of industries for the manufacture, processing, and preservation of articles of food by No. 5 and for the utilization of certain by-products and waste products. Work is to

be carried out by a Rural Industries Board consisting of three persons appointed by the Governor. Its primary duty is to deal with any articles of food other than dairy produce and the processing of the by-products of any rural or horticultural industry.

Dehydration.—As a sequel to the Dehydration Act of 1942 (see *supra*) No. 19 provides for the payment of a gratuity of £750 to Mrs. Malcolm, the vendor of the Dewcrisp Dehydration works. An amendment to the principal Act of 1942 is contained in No. 60, which varies the constitution of the Board.

Jury.—Provision is made for the recalcitrant juror by No. 29. If ten members of a jury have agreed as to the verdict that the accused is not guilty or not guilty of murder but is guilty of manslaughter, the decision of such ten jurors shall be taken and entered as the verdict of the jury. In default of agreement, however, as to a verdict by ten or more jurors, the jury may be discharged at any time after a period of six hours unless in the opinion of the judge further deliberation is desirable.

Libraries.—The Public Library Act of 1902 and the Deposit of Publications Act, 1917, are repealed by No. 47, which is a comprehensive measure for the establishment and maintenance of the library service and its co-ordination throughout the State. It also constitutes a Tasmanian Library Board and covers the establishment of a State Library. For the purposes of the latter the States takes over the Hobart Public Library. The Board is to consist of three persons nominated by the Minister of whom one at least should be a woman, two by the Hobart City Council and one by the Municipal Association of Tasmania, two by the Launceston City Council, one by the Council of the University of Tasmania, one by the executive committee of the body known as the Free Library Movement, the Under-Treasurer or an officer of the Treasury nominated by him, and the Director of Education or an officer of the Education Department nominated by him. Their duties include the making of arrangements with the Parliamentary Library Committee for the provision of a legislative reference service and other library services for the use of members and officers of Parliament. They are to undertake similar services for the departments of State. The Board also has the responsibility for making available for use by the public books relating to the history and development of the State. Its duties include the provision for the training of librarians and library assistants. The Board also has the general supervision of the establishment of libraries in localities throughout the State.

Workers' Compensation.—The Employers' Liability Act of 1895 is repealed by No. 48, which contains substitute provisions including the abolition of the defence of common employment in actions by workers against employers.

Hire Purchase.—No. 64 is a measure amending the latter relating to hire purchase agreements especially as regards the duties of vendors and strengthening the rights and duties of purchasers.

6. VICTORIA

[*Contributed by* S. H. Z. Woinarski, Esq., M.A., LL.D.]

During the First Session of the Thirty-fifth Parliament in 1943, 56 Acts were passed (Nos. 4943–4998). Apart from the annual financial Acts and other measures of purely local interest, the legislation for the year shows a steady absorption in social and economic essays. Ten Acts have been selected below for specal reference.

Commonwealth Powers.—No. 4950 appears now to possess merely an historical interest for constitutional lawyers. It represents the Victorian Parliament's view upon the resolution of the Constitutional Referendum Conference that certain powers conferred on the States by the Commonwealth Constitution should be

referred to the Commonwealth under s. 51 (XXXVII) for a limited period, viz., five years (*see Constitutional Amendments in Australia,* by J. E. Broadbent, *Jour. Comp. Leg.,* November, 1943, p. 1). The Act refers specified powers to the Parliament of the Commonwealth, but provides that it shall not come into operation until the Governor in Council has declared that he is satisfied that the same or substantially the same legislation has been enacted in each of the other States. As such legislation has not been so passed, the Act must be treated as a dead letter. Accepting this position, the Commonwealth placed itself by referendum upon the suffrage of the people, and the people negatived the proposal by a majority of 342,018 in a total effective vote of 4,268,818. The Act also provides that it was not to be repealed or amended except with the approval of a majority of electors voting at a referendum of electors qualified to vote for the election of members of the Legislative Assembly (cf. *A.-G. for N.S.W.* v. *Trethowan* (1931), 47 C.L.R., 97).

Milk Pasteurization.—The general purpose of No. 4972 is to provide for the pasteurization of milk in the metropolis, which, subject to additions by proclamation, comprises the cities in the Greater Melbourne area as well as certain specified adjacent shires. Provision is made for the extension of the Act to urban districts to be defined by proclamation. In its substantive provisions the Act provides for the appointment of a milk pasteurization committee, the functions of which include the survey of existing facilities and the consideration of what additional facilities are necessary for pasteurization and bottling of milk for consumption in the metropolis and the submission to the Governor in Council of a general scheme for such pasteurization and bottling. Special schemes for particular areas may be submitted in advance of the general scheme. The scheme is to provide for the use of existing facilities so far as practicable, and for the establishment of municipal pasteurization depots. On the adoption of a general or a special scheme by the Governor in Council provision is made for the granting of pasteurization licences and for requiring councils or groups of councils to establish pasteurization depots. Further, after the commencement of the Act, no new pasteurization or bottling plant is to be established in the metropolis except with the consent of the Governor in Council and in any municipal district where a council or group of councils has established a depot no other plant is to be established without the consent of that council or group of councils, and where a pasteurization depot has been licensed or has been established by a council or group of councils a pasteurization area may be declared, within which no milk is to be sold unless it is pasteurized at a pasteurization depot specified by the Minister and bottled. The Act is completed by the necessary machinery provisions, and noteworthy is the power of making regulations relating *inter alia* to fixing maximum prices for milk sold to dairymen from pasteurization depots.

Workers' Compensation.—No. 4974 is an amending Act, which illustrates the growing tendency of the legislature to create statutory fictions. The Act increases the maximum annual remuneration of a " worker," that is, an employee eligible for the payment of workers' compensation, from £400 to £520, and brings a person engaged in driving a passenger-hire vehicle used under a contract of bailment within the benefit of the Act by providing that for the purpose of workers' compensation such person shall be deemed to be employed by the person from whom the use of the vehicle is obtained. The contract of bailment does not include a *bona fide* contract for the purchase of the vehicle whether by hire purchase or otherwise, but extends to a contract under which the bailee is required to pay a sum, whether of fixed amount or proportionate to mileage or receipts or otherwise, for the use of the vehicle.

Stamps.—Under the principal Act, the Stamps Act, 1928, companies, persons and firms carrying on or desiring to carry on insurance or assurance business in Victoria are required to hold annual licences upon which duty, based on the

amount of premium receipts of the previous year, is payable. The present Act, No. 4985, is an amending Act which makes it clear that the duty is to be assessed on premiums which are received, charged, or credited in Victoria or upon business transacted in Victoria, or, in the case of marine assurance, in respect of risks of which one of the termini is in Victoria, and provides that a mere notation in the books of a head office in Victoria of premuims received, charged, or credited at a branch or agency shall not of itself be deemed a charge or credit for the purpose of assessing the amount of duty payable. The Act further provides that the duty payable in cases where the amount of premiums received outside Victoria on dutiable marine risks is not stated in the application for a licence shall be altered from the previously existing sum of £200 to a sum, to be determined in each case by the Collector of Imports, of not less than £100 and not more than £1,200, and the duty *prima facie* payable by companies, persons, and firms acting as agents for or insuring under certain open policies on marine risks shall be increased from £500 to £1,200. Lastly, the Act exempts from stamp duty instruments for the conveyance of property to the Housing Commission.

Discharged Servicemen's Preference.—No. 4989 is an interesting experiment relating to preference in employment for the discharged members of the defence forces. The policy of the Act is give to discharged servicemen a right to reinstatement in the employment which they held before the commencement of their war service, and also a right to preference in employment generally with respect to appointments and promotions to positions for which they are suitable and competent. To implement this policy the Act establishes a Discharged Servicemen's Employment Board consisting of three members (of whom two are to be discharged servicemen and one a representative of employers) with the functions of assisting discharged servicemen to gain employment, of obtaining information as to opportunities for employment of, and keeping of records of unemployment among discharged servicemen, and of recommending promotions under the Act. The benefits of the Act are extended not only to servicemen discharged during the present war, but also to certain discharged servicemen of the 1914–1918 war, for by definition "discharged servicemen" are those members of the fighting forces of the Empire and of the women's services auxiliary thereto who were enlisted for full-time service during either the war of 1914–1918 or the present war, who served in some theatre of war to be prescribed by regulation, and who were in Victoria or domiciled in Victoria at the time of enlistment or, in the case of persons who served during the war 1914–1918, are domiciled in Victoria at the commencement of the Act. The remainder of the Act is taken up with detailed provisions. As the Act is the first of its kind in the present war to be passed by any Parliament in Australia, some of these details may be briefly referred to. Subject to certain limitations, a discharged serviceman is entitled upon application within two months after completion of his war service to be reinstated in employment by his former employer at his former status and remuneration, or at least at the most favourable status and remuneration reasonably practicable, and a person so reinstated is not to be dismissed without reasonable cause. The provisions of the Act relating to appointments and promotions are not to apply to any employer who employs not more than one employee at the relevant date, or to the appointment or promotion of members of the employer's family or of his adopted child or adopter. Where an employer invites applications publicly for any position he is required to give preference to any suitable and competent discharged serviceman who duly applies; where the invitation is restricted to those already in his employment the preference to be given is similarly restricted to discharged servicemen already in his employment. If an employer, without first inviting applications, appoints to any position a non-serviceman in his employment, such appointment or promotion is to be regarded as provisional only and an oppor-

tunity to apply within seven days thereafter is given by the Act (in the case of appointment of a person outside his employment) to discharged servicemen generally, and (in the case of promotion of an existing employee) to such discharged servicemen as are already in his employment; and preference is required to be given to the suitable and competent discharged servicemen among such applicants. The reinstatement and preference provisions are to apply in respect of employment by or under the Crown as well as to employers generally, but special provision is made modifying their operation in favour of certain temporary and supernumerary employees of the public and railways services in respect of their appointment to permanent positions. Some machinery provisions complete the Act.

Instruments (Insurance Contracts).—No. 4990 is an amending Act which provides that the arbitration of an insurance claim by an insured person shall not be a condition precedent to proceedings in a competent court by the insured or those claiming through or under him, that that section of the Arbitration Act which provides for a stay of proceedings in court where there has been a submission to arbitration shall not apply to such proceedings, and that no action shall lie against an insured for break of a provision for arbitration.

Education.—No. 4993 introduces general amendments to the principal Act. In its more important provisions it raises the school-leaving age, as from a date to be proclaimed after the war, from 14 to 15 years and provides for a corresponding amendment to be made in relation to the minimum age for employment in factories. The existing provisions excusing a child from attendance at school by reason of distance of residence from the nearest State school are altered so as to limit the excuse to those residing more than two miles, if under nine years of age, and more than three miles, if at least nine years of age, from such nearest school, and so as to make efficient and regular tuition by correspondence necessary in all such cases of non-attendance. Concomitantly heavier penalties are imposed upon parents for failure to send children to school. In the next place the Act deals with the question of the committal of children habitually absent from school to institutions, and in this connection increases the maximum period of commitment from six to 12 months, and provides for such commitment until the age of 16 years where the child's backwardness in educational attainments is attributable to such habitual absence. Lastly, the Act contains certain powers in relation to the registration of schools and establishes machinery for the cancellation of registered schools on specified grounds and an appeal to the Minister from the Council of Public Education upon such cancellations.

Land Settlement (Acquisition).—No. 4994 may be read in association with No. 4989 above, the Discharged Servicemen's Preference Act. Its purpose is sufficiently revealed by its formal title—An Act to make provision for the setting apart and acquisition of land with the object of making the same available on favourable terms in order to enable those who have been members of the fighting services to engage successfully in primary production and generally of promoting land settlement. To accomplish this the Act authorizes the setting apart of Crown land and the acquisition by purchase or compulsorily of other land. On its machinery side the Act contains special provisions governing the compulsory acquisition of land for such purposes, the principal features of which are the publication in the Government *Gazette* of a notice of compulsory acquisition which vests the land in the Crown and converts estates and interests therein into claims for compensation, the service of copies of such notice on the interested persons, the making of claims by such persons within 28 days or such further time as the Minister allows, the determination of disputed claims for compensation by a county court judge appointed for the purpose by the senior county court judge, the valuation for compensation purposes of the land acquired at the amount which would be paid therefor by a purchaser intending

to use it for the same purpose as that for which it was being used at the time of the passing of the Act, and the right of the Crown to discontinue acquisition within one month after the judge's award of compensation. Further machinery and miscellaneous provisions complete the Act.

Housing.—No. 4996 considerably alters and extends the powers of the Housing Commission with respect to the acquisition of land and the erection and leasing of houses. It confers on the Commission for the first time power to sell houses and to make advances to persons to enable them to purchase, erect, or enlarge houses and, in consonance with its enlarged functions, increases the Commission's borrowing power from £2,000,000 to £215,000,000. In the acquisition of any area of land the Commission is empowered to give a general notice by publication in the Government *Gazette* and daily and local newspapers in lieu of the individual notices to treat required by existing legislation relating to the compulsory acquisition of land, and also to re-plan and re-subdivide areas so acquired and for that purpose to recommend to the Governor in Council the closing of streets and the extinguishment of easements and restrictive covenants. Provision is made for the direct sale of acquired land by the Commission to the Crown, the Minister of Public Instruction, public statutory corporations and municipalities. The Commission is empowered to accept donations, gifts and bequests of real and personal property, and municipalities are authorized to acquire land to give to the Commission for its purposes.

The capital cost of houses to be erected by the Commission (including the land) is limited to £1,250 in the case of wooden houses and £1,500 in the case of brick, stone or concrete houses, and the erection of such houses is made subject to the regulations made under the Local Government (Building Regulations) Act 1940 so far as they impose construction standards. Houses vested in the Commission may be let or leased or sold to eligible persons, that is, persons whose incomes, except in special cases, do not exceed £620. In exercising its powers to let or sell houses and to make advances the Commission is to have regard to existing housing accommodation, size of families and war service (if any) of applicants, and the priority of persons displaced from slum and sub-standard houses in respect of leasing certain of the Commission's houses is preserved.

Sales of houses are to be on a rental purchase basis with weekly, monthly, quarterly or half-yearly instalments of rental comprising interest and principal arranged on a credit foncier plan. A title in fee simple subject to a mortgage for the amount of the unpaid purchase money may be obtained after 20 per cent. of the purchase price has been paid.

Advances may be made to enable an applicant to erect a house on his own land, to purchase land and erect a house on his own land, to purchase land and erect a house, to purchase a newly erected house or a house in course of erection, or to enlarge or improve an existing house. The amount of advances is limited to 90 per cent. of the security and also to £1,125 in the case of a wooden house and £1,350 in the case of a brick, stone or concrete house. Repayment, which is to be secured by first mortgage, is to be by quarterly or half-yearly instalments comprising interest and principal on a credit foncier plan.

Other provisions relate to the determination of the purchase price of houses from the capital cost thereof, the prescription of interest rates, the preparation of tables of instalments in respect of purchases and repayments of advances, the maximum terms for such purchases and repayments, and the making of valuations and the appointment and control of valuators.

Milk and Dairy Supervision.—No. 4997 aims at the improvement of the supply of milk to the metropolis and urban areas to be proclaimed and "metropolis" is given the same definition as in the Milk Pasteurization Act (No. 4972 above). The Act provides for the appointment of a Milk Supply

Committee, the powers and duties of which include publishing information and advice concerning means for the carriage, delivery, storage and treatment of milk for consumption in the metropolis, reporting to the Minister on desirable statutory amendments, and preparing draft regulations under the Act. Provision is made for the establishment and maintenance of a research laboratory and for the payment of the costs and expenses connected therewith. No dairy farm or milk depot is to supply milk directly or indirectly for consumption in the metropolis unless the owner thereof is the holder of the appropriate annual permit under the Act as well as any licence otherwise required. Such permits are to be issued by the Minister in his discretion and to contain prescribed conditions, for contravention of which the permit may be suspended by the Superintendent of Dairying for fourteen days or suspended for a longer period or cancelled by the Minister. Provision is made for the making of regulations relating to standards of sanitation and cleanliness at dairy farms and milk depots in respect of which permits must be held, to the conditions to be contained in such permits, and to the regulation and prescription of standards in respect of the treatment, storage and carriage of milk for consumption in the metropolis, and also for the inspection by authorized officers of dairy farms, dairies and milk depots and of vehicles used in the transport of such milk and of the books, papers and accounts of owners of such farms, dairies and depots. The Act is completed by a number of miscellaneous amendments to the principal Act.

7. WESTERN AUSTRALIA

[Arrangements have been made to include the review in the next issue.]

IV. NEW ZEALAND

[*Contributed by* J. CHRISTIE, ESQ., C.M.G., *Counsel to Law Drafting Office.*]

THE Fifth and last Session of the 26th Parliament of New Zealand began in February, 1943, and ended in August of the same year.

A General Election of Members of Parliament was held in September, 1943, and special arrangements were made for taking the votes of members of the Forces who were then serving overseas. The Session was marked by a bigger volume of more important legislation than was passed in 1942, the Acts passed numbering: 27 Public Acts, 8 Local Acts, and 4 Private Acts.

The following Review summarizes briefly the more important of the Public Acts.

Commercial Gardens.—The Commercial Gardens Registration Act (No. 1) provides for the registration of gardens used in the production of vegetables intended for sale. Registration fees, ranging from 5s. to £2 (according to area) are imposed; after administrative expenses have been defrayed, the residue of the registration fees collected are made payable to a central organization for expenditure in furtherance of the interests of commercial gardeners.

Finance.—Three Finance Acts (viz., Nos. 2, 9, and 15) were passed during the session. S. 3 of No. 2 relates to payments made by employers for the purpose of supplementing the incomes of former employees who have joined any of His Majesty's Forces. The Commissioner of Taxes is empowered in his discretion to treat such payments as if they were expenses incurred by an employer in the production of his income. In such cases, the payments are accordingly deductible from the employer's assessable income, and become part of the assessable income of the recipient.

Part I of No. 9 deals with matters affecting the public revenues. S. 2 increases the Government's borrowing-powers for war purposes from

£180,000,000 to £300,000,000. S. 3 diverts to the War Expenses Account one-quarter of the year's revenue derived from income-tax. S. 7 (as amended by s. 10 of No. 15) relates to the exemption from local taxation of diplomatic and other representatives of overseas countries and of their official and domestic staffs. The extent of the exemption (which may be total or partial) is in the discretion of the Minister of Finance.

The other provisions of No. 9 relate to matters that are only of local interest.

No. 15 deals with a variety of matters, of which the following are the most important. S. 3 empowers the Treasury and the Controller and Auditor-General to carry out investigations with respect to contracts (including sub-contracts) for the supply of goods or the carrying out of works for Government purposes. The powers of investigation include power to inspect and to demand the production of books of account and other documents.

By s. 7, the provisions of s. 84 of the Death Duties Act, 1921 (which provides certain exemptions from duty in respect of the estates of deceased members of His Majesty's Forces) are extended to apply with respect to deceased members of the Merchant Service.

S. 13 gives effect to an arrangement made with the Government of Fiji, and enables that Government to become a contributor to the National Provident Fund for the purpose of providing pensions on retirement to nurses and other personnel employed in Fijian hospitals. In the background of this unusual provision is the fact that many of the persons concerned are ordinarily residents of New Zealand and have received their professional training in New Zealand.

S. 14 relates to the tenancy of State-owned dwelling-houses, under the Housing Act, 1919 (*Jour. Comp. Leg.*, Third Series, Vol. III, Part II, p. 95). It is not now the general policy to permit State tenants to acquire the freehold. The section referred to above effects a kind of compromise and empowers the Housing Board to make arrangements with a tenant whereby "in consideration of specified payments to be made by the tenant for a specified period, he shall be entitled after attaining a specified age, or his widow shall be entitled after his death, to be the tenant of the dwelling for the remainder of his or her life free of rent or at a reduced rent." An arrangement may also be made under which the tenant may nominate any of his or her children to be the tenant of the dwelling after his or her death.

Mandated and other Island Territories.—By the Island Territories Act (No. 4), the functions of the Minister for the Cook Islands under the Cook Islands Act, 1915, and the functions of the Minister of External Affairs under the Samoa Act, 1921, are transferred to the newly created Ministry of Island Territories.

External Affairs.—The External Affairs Act (No. 5) reconstitutes the Ministry of External Affairs (created under the External Affairs Act, 1919). The Minister of External Affairs under the new Act is charged "with the administration of the external and foreign affairs of New Zealand, including relations with other countries, communications between the Government of New Zealand and other Governments, the representation of New Zealand in other countries, and the representation of other countries in New Zealand."

Patents and Designs.—The Patents, Designs, and Trade-marks Amendment Act (No. 6) is an adaptation, without material alteration, of the Patents and Designs Act, 1942 (5 & 6 Geo. VI, c. 6) (Imp.). The opportunity was taken, in the same Act, to enact a provision corresponding to s. 13 of 22 & 23 Geo. V., c. 32 (Imp.).

Parliament.—In view of the then approaching General Election (which was in fact held in September, 1943) the By-elections Postponement Act (No. 7) provided that no writ to fill a casual vacancy in the House of Representatives should be issued while the Act remained in force. The Act was expressed to expire on September 30, 1943.

Nurses.—The Nurses and Midwives Registration Amendment Act (No. 11)

is a measure due, in part at least, to consequences of the war. It makes provision, *inter alia,* for the recognition of hospital-ships as training-schools for nurses, and also for more liberal recognition of training received overseas by candidates for registration in New Zealand. Provision is also made to permit of the registration as nurses or midwives of women who have attained the age of 21 years. Originally the minimum age of candidates for registration was 23 years, reduced in 1926 to 22 years. S. 5 imposes restrictions on the resumption of practice by nurses and midwives who have been temporarily detained in a mental hospital. A similar provision has been in force in respect of medical practitioners since 1924 (*see Jour. Comp. Leg.,* Third Series, Vol VIII, Part II, p. 166).

Naturalization.—The British Nationality and Status of Aliens (in New Zealand) Amendment Act (No. 13) incorporates in the law of New Zealand the provisions of the British Nationality and Status of Aliens Amendment Act, 1943 (6 & 7 Geo. VI, c. 14), recently passed by the Parliament of the United Kingdom. The law of naturalization is, for all practical purposes, the same in New Zealand as in the United Kingdom, and is based on the adoption in 1928 of Part II of the Imperial Act of 1914 (*see Jour. Comp. Leg.,* Third Series, Vol. XII, Part II, p. 138).

Land Sales.—The most contentious measure passed in the 1943 session is the Servicemen's Settlement and Land Sales Act (No. 16). The Act, in the meantime, is a temporary measure, and is due to expire on the expiration of five years after the termination of the war. It is expressed in its Long Title to be "An Act to provide for the acquisition of land for the settlement of Discharged Servicemen; and to provide for the control of Sales and Leases of Land in order to facilitate the settlement of discharged servicemen and to prevent undue increases in the price of land, the undue aggregation of land, and its use for speculative and uneconomic purposes." While emphasis is placed (both in the title and in the text of the Act) on its application to the settlement of "servicemen," the Act in fact applies, with minor exceptions, to all transactions involving the sale or lease of rural or urban land. The Act establishes a Land Sales Court (presided over by a Judge with the status of a Supreme Court Judge) and a series of Land Sales Committees. No transaction involving the sale or lease of land can be completed without the consent of the Land Sales Court. Applications for the consent of the Court are heard in the first instance by a Land Sales Committee, which is required, in considering applications for consent, to have regard "to the desirability of facilitating the settlement of discharged servicemen and of preventing undue aggregation of land and its use for speculative or uneconomical purposes." In its application to servicemen, the obvious intention of the Act is to prevent a recurrence of conditions that obtained after the last war, when the value of land was temporarily enhanced by the "boom" prices obtained for primary products sold overseas. When prices fell, values had to be drastically written down, with much resultant loss and economic hardship.

In its application to other than farmlands, the object is to prevent profiteering and speculation in land. If these objectives are even partially achieved, the operation of the Act will be beneficial, but there was more than a suspicion of political strategy in combining in one measure two such distantly related subject-matters, and in making use of the public sympathy for men who have served in the Forces to secure the enactment of a measure with which these men, as such, are not concerned.

Social Security.—The Age-benefits and Invalids' Benefits (Reciprocity with Australia) Act (No. 18) was passed for the purpose of implementing an agreement entered into between the Governments of Australia and New Zealand for reciprocity in the matter of age-benefits and invalids' benefits (in New Zealand) and the corresponding pensions (in Australia). Under the agreement (as implemented by legislation) residence in Australia or New Zealand (as the case may

be) will, as a qualifying factor for a benefit or pension, be accepted as the equivalent of residence in the country in which the claimant is actually resident when he makes application.

The Social Security Amendment Act (No. 19) increases by varying amounts the maximum values of the several monetary benefits payable under the 1938 Act. Provision is also made in this amending Act for payment out of the Social Security Fund, in relation to the provision of medical services, of moneys required for the acquisition, equipment, and maintenance of buildings (e.g., buildings required for the establishment of medical clinics) and for the remuneration of the professional and general staff employed in connection therewith.

Statutes Amendment.—The Statutes Amendment Act (No. 20) contains 30 sections and amends 20 different Acts. The only provision of general interest is contained in s. 14, which extends the operation of Part II of the Family Protection Act, 1908 (which re-enacted the Testators' Family Maintenance Act, 1906). For many years the law in this particular related only to the modification by the Supreme Court of the wills of deceased persons (for the benefit of a husband, wife, or children not adequately provided for). In 1939 (*see Jour. Comp. Leg.*, Third Series, Vol. XXIII, Parts II–III, p. 111) the law was extended to apply to intestacies. By s. 14 of 1943 No. 20 it has been again extended (in respect both of testate and intestate estates) to enable the Court to alter the disposition in favour of a father or mother (whether the relationship is legitimate or not) in cases where the deceased has not left a wife, husband, or children.

War Pensions.—The War Pensions Act (No. 22) is a consolidation and amending measure, containing 83 sections and 5 schedules. Its principal feature is that it is of general application, and is not limited (as were the Acts which it replaces) to pensions in respect of service in any particular war, but covers past, present, or future service with the Forces, whether in war or peace.

It is not possible to summarize its provisions, but ss. 14 and 15 call for special mention as being indicative of the generous attitude of the Government towards claimants. S. 14 provides, in effect, that where a claim for a pension is made by or in respect of a member of the Forces, his original medical grading shall be accepted as conclusive proof of his absolute physical and mental fitness, subject only to such qualifications (if any) as are duly recorded in the medical record made at the time of grading. S. 15 directs the War Pensions Board to decide all pension claims "in accordance with substantial justice and the merits of the case," and further provides that the claimant for a war pension "shall in every case be given the benefit of any doubt as to the existence of any fact, matter, cause, or circumstance that would be favourable to him." Although expressed with more circumlocution, the law in this particular is not in effect very different from the law as to "attributability" and "presumptions in favour of the claimant" as originally contained in s. 11 of the War Pensions Amendment Act, 1923, as amended in 1930 (by the deletion of reference to a limiting period of seven years). (*See Jour. Comp. Leg.*, Third Series, Vol. VII, Part II, p. 111.)

Workers' Compensation.—The Workers' Compensation Act (No. 23) amends in various respects the provisions of the Workers' Compensation Act, 1922. In particular it makes elaborate provisions as to the circumstances in which hernia is to be regarded as an "accident" for which compensation is payable. It also imposes on employers an obligation to defray the transport expenses of a worker who, as a result of an accident, has to obtain medical or surgical treatment in the locality where he resides. Subject to certain exceptions, employers are now obliged to maintain a policy of insurance or indemnity to protect the compensation rights of the workers employed by them.

Industrial Relationships.—The Industrial Conciliation and Arbitration Amendment Act (No. 25) makes some significant alterations of the law. S. 2

re-states, in more specific terms, the law against the victimization by employers of workers who have taken part in the activities of their union, or have sought the enforcement of rights to which they were entitled under an award or industrial agreement, or have otherwise taken an obvious part in connection with labour disputes or other industrial matters. S. 3 relates to compulsory unionism, and renders liable to a penalty of £5 a worker, who, being duly required to join an industrial union, refuses or fails to do so. The position with respect to workers unwilling to join unions has been accentuated by the fact that, for war purposes, workers (particularly women and girls) have been "man-powered" into industries in which in ordinary circumstances they would not be engaged. (As to compulsory unionism *see Jour. Comp. Leg.*, Third Series, Vol XX, Part II, p. 109.) By regulations under the Emergency Regulations Act, employers may be required to collect and pay to the appropriate authority union fees payable by workers who have made default in the payment of such fees to their union.

A more important alteration of the existing law is made by s. 4 (which is designed to make the Arbitration Court, in fact as well as in law, the final authority in matters within its jurisdiction). While hitherto the Court of Arbitration has been the only authority to determine what constitutes the breach of an award of the Court or an industrial agreement, the recovery of wages by workers has been by action in a Magistrate's Court (with a right of appeal to the Supreme Court). It has happened that, in an action for the recovery of wages, the Supreme Court has virtually over-ridden the decision of the Court of Arbitration on the question of whether or not a breach of an award had been committed. In order to preserve the sanctity of the Court of Arbitration the law has now been altered to permit of the recovery of wages in the Court of Arbitration in any case where the right to demand payment follows automatically on the determination by that Court that an act complained of constitutes a breach of an award or agreement. The result is, therefore, that unless a plaintiff chooses to proceed in a Magistrate's Court for the recovery of wages claimed by him in consequence of a breach of an award or industrial agreement, the decision of the Court of Arbitration in matters within its jurisdiction cannot be reviewed by any other Court.

V. WESTERN PACIFIC

1. FIJI

[*Contributed by the* ATTORNEY-GENERAL]

THIRTY-SEVEN Ordinances were passed during the year, mainly short amendment Ordinances dealing with points of procedure.

Employment of Women, Young Persons and Children.—No. 2 prohibits the employment of children under twelve years of age, except in light domestic, agricultural or other approved work with the child's own family.

Prisons.—No. 4 introduces a system of extramural punishment for persons sentenced to short terms of imprisonment.

War Pensions.—No. 13 provides for the granting of war pensions to Members of the Forces and their dependents. It establishes a Board of Pensions which, subject to the control of the Governor, investigates pension claims and assesses the rates of pensions. Incapacity qualifying for pension includes incapacity arising out of disease contracted or aggravated during employment on active service.

Death and Gift Duties.—No. 28 authorizes the Governor to remit, or if paid, to repay, estate duty and succession duty in respect of estates of persons killed

on active service, or who died as a result of wounds or injuries received or as a result of disease contracted or aggravated within three years of death while on active service against the enemy, or on service which, in the opinion of the Governor in Council, is of a war-like nature and involves the same risks as active service.

The whole amount may be remitted or repaid in respect of estates which do not exceed £5,000 for estate and succession duty purposes, and in cases where such value exceeds £5,000 the remission or repayment may only be made in respect of the first £5,000.

Industrial Associations.—No. 37 makes provision for the filing with the Registrar, on March 31 in every year, of annual returns by Industrial Associations. The returns are required to give details of receipts, expenditure and membership for the preceding year, and particulars of new rules, alterations and changes of officers.

2. GILBERT AND ELLICE ISLANDS COLONY

[*Contributed by* H. E. MAUDE, ESQ.]

THERE were three Ordinances.

Income Tax.—No. 1 amends the Income Tax Ordinance 1941 by decreasing the exemption for persons without dependants to £150 and for persons with dependants to £400 and by including in the exemptions from taxation (*a*) of the official salary and income outside the Colony of Representatives in the Colony of the Government of another country, (*b*) of the salary and income outside the Colony of officers temporarily inside the Colony of the Government of any part of the British Empire providing there is reciprocal agreement between that country and the Colony. Provision is made for the appointment of an Auditor to examine and check accounts and revenue under the Regulation.

Gaol and Prison.—No. 2 amends the Gaol and Prison Ordinance, 1916, by providing for the extra-mural imprisonment of prisoners with sentences not exceeding six months or who have been commuted for non-payment of fine or costs not exceeding ten pounds. Such prisoners can live outside the gaol and be employed on public works for eight hours daily in the discretion of the Administrative Officer and with the consent of the prisoner.

Rent Relief.—No. 3 provides for the relief of lessees of land from liability to pay rent and fulfil other obligations while deprived of the use of such land by military occupation. It provides for the relief against forfeiture of leases during the period of such occupation and allows the lessor to take the produce of the land during such period. The date of commencement of occupation is fixed in respect of certain islands. The date of termination is to be fixed by the High Commissioner by proclamation.

War Legislation.—The High Commissioner by virtue of his powers under the Emergency Powers (Defence) Acts 1939 and 1940 has enacted Defence (General) Regulations repealing the Defence (General) Regulations 1939 consolidating amendments and bringing this legislation up to date. Its provisions are similar to those enacted in other Colonies.

Defence (General) Amendment Regulation amending the principal Regulation by defining "prisoner of war," extending the power of the Resident Commissioner to make orders setting out offences by seamen and providing for identification of aliens in custody.

Military Units Regulations authorizing the Resident Commissioner to establish military units and prescribing his powers. An amending regulation provided that the High Commissioner shall also have power to establish military units in the Colony.

3. BRITISH SOLOMON ISLANDS PROTECTORATE

[*Contributed by* H. E. MAUDE, ESQ.]

THERE were three Regulations.

Income Tax.—No. 1 amends the Income Tax Regulation, 1941, by decreasing the exemption for persons without dependants to £150 and for persons with dependants to £400 and by including in the exemptions from taxation (*a*) of the official salary and income outside the Protectorate of Representatives in the Protectorate of the Government of another country, (*b*) of the salary and income outside the Protectorate of officers temporarily inside the Protectorate of the Government of any part of the British Empire, providing there is reciprocal agreement between that country and the Protectorate. Provision is made for the appointment of an Auditor to examine and check accounts and revenue under the Regulation.

Rent Relief.—No. 2 provides for the relief of lessees of public and native land and of freehold land and the holders of mining tenements from liability to pay rent and to fulfil other obligations for the period of military occupation of the Protectorate. The date of termination of military occupation of any island is to be fixed by the High Commissioner by proclamation.

Mortgagor's Relief.—No. 3 provides for the relief of mortgagors of land from liability to pay interest and to fulfil other obligations for the period of military occupation of the Protectorate. The date of termination of military occupation of any island is to be fixed by the High Commissioner by proclamation.

War Legislation.—The High Commissioner by virtue of his powers under the Emergency Powers (Defence) Acts 1939 and 1940 has enacted Defence General (Amendment) Regulation, amending the principal Regulation to provide for the death penalty for aiding enemy or impeding allied military operations and limiting the application of the Regulation to the boundaries of the Protectorate and territorial waters.

Defence General (Amendment No. 2) Regulation, amending the principal Regulation by defining "prisoner of war," extending the power of the Resident Commissioner to make orders setting out offences by seamen and providing for identification of aliens in custody.

Special Regulations have been made by the Resident Commissioner under the British Solomon Islands (Temporary Provisions) Order in Council 1942.

Native Courts Regulation No. 1 amends the Native Courts Regulation 1942 by providing for the serving of imprisonment of not more than one month in communal work and giving the Court summary jurisdiction in respect of obstruction, disturbance and contempt of court. It further provides penalties for such obstruction, disturbance and contempt.

Special Courts Regulation No. 2 amends the Special Courts (Establishment) Regulation 1942, giving the Resident Commissioner power to remit or commute sentences of death passed by Special Commissioners.

4. KINGDOM OF TONGA

[*Contributed by* C. W. S. JOHNSON, ESQ.]

LAWS enacted, sixteen.

Customs Duties.—No. 3 amends the Customs Duties Act, 1938, by providing that all goods imported into the Kingdom by His Britannic Majesty's Agent and Consul shall be admitted duty free. Previously only goods imported by him for official use were duty free.

Agricultural Organization.—No. 4 amends the Agricultural Organization Act, 1940, by widening the definition of the word "Producer" to include any person who is liable for Poll Tax under the provisions of the Poll Tax Act, 1923. The amendment became necessary if all Agricultural members of the community were to be brought within the scope of the principal Act.

Licences.—No. 5 amends the Licences Act, 1922, by providing for the licensing of Boarding House Keepers, Tailors, and Shoemakers. The purpose of the amendment is partly to provide additional revenue, but chiefly to ensure stricter control over such persons. The licence fees are equitable, and are based on those already shown in the principal Act.

Education.—No. 6 amends the Education Act, 1927. The principal Act empowers the Minister of Education to dismiss summarily a teacher on proof of immorality. This control was felt to be unduly hard on teachers, who were placed at an unfair disadvantage in comparison to other Civil Servants. The Amending Act, reducing the Minister's power of dismissal to cases where the immorality complained of is with one of the teacher's pupils, removes any injustice to teachers, whilst at the same time safeguarding the morals of school-children.

Land.—No. 7 amends the Land Act, 1927. S. 69 of the principal Act entitles a widow to a life estate in her husband's tax allotment or lease. The Act did not, however, show whether she had to claim formally such interest, and confusion was caused. The Amending Act makes it incumbent upon the widow to claim such interest from the Minister of Lands, or his deputy within one year of her husband's death.

Defence Force.—No. 8 amends the Defence Force Act, 1941, by providing that the Commandant, Tonga Defence Force, may at his discretion grant pay to members of the Force when on leave. Such pay shall not be in excess of twenty-eight days, except in the case of sick leave.

Police.—No. 9 amends the Police Act, 1923, by empowering the Police to record descriptions of persons held in custody. Such records are in no circumstances to be destroyed; persons in custody refusing to submit to the making of such records render themselves liable thereby to fine and imprisonment.

Defence Force.—No. 10 amends the Defence Force Act, 1941. By virtue of the amendment only Tongan personnel are in future to take the oath of allegiance and sign the enrolment form. The amendment became necessary on account of the large and fluctuating number of non-Tongans in the Defence Force.

A further amendment is the repeal of sub-s. (*b*) of s. 22, of the principal Act. This sub-section under which all sentences passed by Courts Martial had to be confirmed by Her Majesty in Council, became unworkable with the increased establishment of the Defence Force.

Military Tribunals.—No. 11 confers upon the Tonga Defence Force the same criminal jurisdiction over its members as has the British Army under the Army Act 1881. The War Time Contingencies Act was invoked to over-ride Clause 21 of the Constitution, which expressly states that the Army shall be amenable to the Civil Courts. The jurisdiction of the Military Courts is optional, and by agreement Tongan members of the Defence Force charged with serious offences will still be brought before the Civil Courts. Sentences of death upon Tongan members of the Force are not to be carried into execution unless confirmed by the Queen in Council. Sentences other than death must be confirmed by the Commandant, Tonga Defence Force, before being carried into execution.

Harbours and Pilotage.—No. 12 amends the Harbours and Pilotage Act, 1903, by prohibiting the use of heavy or drag nets (except by written permission of the Harbour-master) in Pangai Harbour. The purpose of the Act is the preservation of fish.

Criminal Offences.—No. 13 amends the Criminal Offences Act, 1926. The definition of " night " in the principal Act is changed from nine in the evening until dawn to six in the evening until six the following morning. The new definition is more in keeping with local conditions.

Court Fees.—No. 14 amends the Court Fees Act, 1927, by reducing the fee payable on filing a petition for divorce from £10 to £6.

Pounds and Animals.—No. 15 amends the Pounds and Animals Act, 1918.

Previously the carcase of a pig or goat killed for trespassing, unclaimed after six hours, had to be buried. By virtue of the amendment the owner or occupier of the land trespassed upon may dispose of the carcase as he thinks fit if it is unclaimed within six hours. The amendment became necessary on account of the greatly increased trespass by these animals.

Royal Estates.—No. 16 amends the Royal Estates Act, 1927. The disposition of the Tungi Estates by deed is now vested solely in Queen Salote Tupou, whereas formerly she held the power jointly with Her Prince Consort. The proviso that the Tungi Estates should not be vested in the Sovereign or Heir Apparent is deleted by the Amendment.

5. NEW HEBRIDES

[*Contributed by the* RESIDENT COMMISSIONER]

THERE were fourteen joint regulations made in the year.

Censorship.—No. 1 provides for censorship of local publications.

Navigation.—No. 2 amends the New Hebrides restriction of navigation (Malekula) Joint Regulation No. 11 of 1939.

Cattle.—No. 3 controls the sale of cattle.

Land Transfer.—No. 4 repeals Joint Regulation No. 22 of 1941—Land Transfer restriction.

Casual Labour.—No. 6 controls the work and wages of casual native labourers at Vila.

Rates and Taxes.—No. 8 provides a single service for the collection of rates and taxes.

Native Courts and Native Code.—No. 9 brings into force the Native Code and institutes Native Courts in the Central District No. 2 and Northern District.

Publication of Regulations.—No. 11 prescribes the method of publication of Joint Defence Regulations.

Firearms and Munitions.—No. 13 provides for the temporary control of the possession and use of firearms and ammunition by the natives of Tanna.

VI. SOUTH AFRICA

1. UNION OF SOUTH AFRICA

[It is hoped to publish the review in the next issue.]

2. CAPE PROVINCE

[*Contributed by* A. J. PIENAAR, ESQ.]

THE legislative output for the year was neither large nor important. Sixteen Ordinances became law. Of these three were to appropriate revenue to the services of the Province, eleven were amending Ordinances, one repealed and replaced a former one, and only one was original.

Education.—Under the principal Ordinance (5 of 1921) boarding establishments for the poorest sections of the community were termed "Indigent" boarding departments. To remove what was considered a stigma the name has been changed by No. 2 to "Good Hope" boarding departments. To meet the increased cost of living certain subsidies and capitation grants have also been increased. Ord. No. 14 also amends the Ordinance and makes large financial provision for "Good Hope" boarding departments.

No. 12 (School Board Service) amends Ord. No. 18 of 1941, which established a common provincial service for officials of school boards. This Ordinance now includes certain special schools which were omitted in 1941.

Shops Hours.—Local authorities are now empowered by No. 3 to fix special opening and closing hours for shops in Native locations and Native villages. This is to enable shops in those areas to remain open after the closing hour in the municipal area, so that natives, returning from work late, will be able to do their shopping in their own shops. S. 4 repeals and replaces s. 24 of the principal Ordinance (14/1930). The section had been amended three times before (twice in one year). The new section introduces some amendments and consolidates the law on the subject of trading on public holidays.

Wild Flowers Protection.—No. 7 amends No. 15 of 1937, which very severely restricted the gathering, plucking, and sale of wild flowers. This Ordinance goes further and prohibits the exportation of wild flowers except by and to scientific societies, to be prescribed by the Administrator.

Differential Rating.—After some years of pressure the legislature in 1934 passed Ordinance No. 13 which enabled a local authority (defined as any one of the three kinds of urban local governments) after a resolution adopted by a majority of the whole council or board to apply to the Administrator for permission to impose in respect of specified areas which do not receive specified services (e.g., electric light, refuse removal, made-up road, etc.) only a percentage of the general landlord and owner's rate. No. 9 replaces that Ordinance and enables the Administrator without previous application to proclaim a reduced rate in such areas, and he may also proclaim reduced health and water rates.

Local Government Superannuation.—No. 15 is the one new piece of original legislation, i.e., as far as the Cape is concerned, and marks another step in modern economic development, namely, the trend towards larger combinations of employers and employees—or, in short, rationalization. It also seems to be the correct approach to that blessed state of human happiness—social security—namely, from below. Under existing legislation the larger local authorities have power to provide for the superannuation of their employees, but those of lower status have not. The larger bodies have established their own pension funds which are in a sound state. Smaller ones have insurance schemes, others have provident funds on savings bank lines—while many have made no arrangements. The present state of affairs is obviously unsatisfactory. The schemes are too varied. Some employees have poorer benefits than others and some have none. This, of course, means that transfer from one local authority to another is very often very difficult, and there is no transfer from a pension fund to an insurance scheme. To overcome all these disadvantages and to provide for the old age of the employees of smaller bodies, the present Ordinance establishes a uniform pension fund system such as has been adopted by the Civil Service, the Government Railway Service, and by local authorities in Great Britain under the Local Government Superannuation Act. Local authorities already having pension funds can adopt the Ordinance and, after having made suitable provision for employees under existing schemes, can join a joint board. The Ordinance is based on similar legislation in the other provinces, viz., Transvaal, No. 16 of 1930 as amended by 10 of 1937 and 12 of 1940; the Orange Free State, No. 14 of 1938; and Natal, No. 12 of 1939. Those Ordinances enable local authorities in those Provinces to establish joint funds. In the Transvaal before the Ordinance was passed 16 municipalties had since 1924 been working such a scheme successfully. In the Cape, because of its very much larger area and more varied kinds of local authorities, this Ordinance provides for one or more, but not more than five joint funds. The smaller bodies which have hitherto been unable to make provision for the superannuation of their employees may become members of a joint fund. Those who have already established schemes may, as already stated, join a joint fund. It is conceivable that in time to come all the existing pension funds and schemes may become absorbed in the joint funds established under the Ordinance. If that happens there will be uniformity throughout the Province in respect of the pension benefits of employees of local authorities. It will not be necessary

to review in detail the provisions of the Ordinance. It is of interest generally as an example of rationalization, and because it raises the question why other large employers in kindred undertakings should not do likewise.

3. NATAL

THE 17 Ordinances passed during the year consisted almost entirely of minor amendments and four relating to the cities of Durban and Pietermaritzburg.

Motor Vehicles.—War conditions rendered necessary amendments in the Motor Vehicle and Road Traffic Regulation Ordinance, 1937, which were made by No. 10. The refund of registration and licence fees was allowed in certain cases to members of the armed forces. Licences might be issued to drivers without a photograph if the driver satisfies the registrar that he had been unable to obtain such a photograph through causes beyond his control. Fees paid for the registration of cycles go to the health committees for the benefit of their revenue funds.

4. ORANGE FREE STATE

[*Contributed by* F. W. A. GRAY, ESQ., B.A., LL.B.]

NONE of the legislation passed by the Orange Free State Provincial Council during the year 1943 can be regarded as of more than purely local interest. Fifteen Ordinances found their way on to the Provincial Statute Book, of which four were measures providing for the financing of the service of the Province, while the remainder were amending Ordinances relating to auction dues, game protection, hospitals, licences control, local government, motor vehicles, and roads.

Auction Dues.—No. 6, by an amendment of the Auction Dues Ordinance No. 9 of 1934, substitutes a new section dealing with accounting for auction dues, for the section relating to that matter in the main Ordinance.

Game Protection.—No. 14 introduces into the Game Protection Ordinance No. 6 of 1937, a new section enabling a landed proprietor, if he has obtained a permit from the Administrator of the Province to that effect, to destroy any game which may have become dangerous or for any reason undesirable on his land.

Hospitals.—No. 8 amends the Hospitals Ordinance No. 13 of 1933, by amending in certain respects the conditions of service of nurses and their leave of absence.

Licences Control.—Nos. 9 and 15, which amend the Licences Control Ordinance No. 10 of 1934, alter the provisions of the last-mentioned Ordinance on the subject of the conditions of the grant of trading licences and the period of office of members of a licensing board.

Local Government.—Nos. 3, 11 and 12, which amend the Local Government Consolidation Ordinance No. 15 of 1935, present no features new to municipal government or of general interest, dealing as they do with such matters as the convening of meetings of voters, qualifications to be enrolled and to vote, resignations of town councillors, and so forth.

Motor Vehicles.—Nos. 2 and 7 amend the Motor Vehicle Ordinance No. 8 of 1941 by reducing the amount of the fees payable in respect of motor vehicle licences, and by dispensing in a stated contingency with the requirement of the main Ordinance that the applicant for a licence to drive a motor vehicle shall furnish copies of a recent photograph of himself. The requirement is dispensed with if the applicant satisfies the registering authority that he has been unable to obtain the necessary photograph through causes beyond his control, but the Administrator may at any time by proclamation rescind this provision, and in that event the holder of the licence must furnish a photograph of himself to the registering authority within six months of the promulgation of the Administrator's proclamation.

Roads.—No. 13 amends the Roads Ordinance No. 6 of 1941 in respect of purely local matters.

5. TRANSVAAL

TWENTY Ordinances were passed during the year, of which No. 13 extended the borrowing powers of the municipality of Johannesburg, and No. 4 which provides for a gratuity to a former teacher.

Motor Vehicles.—When owners of motor vehicles are unable to obtain petrol, tyres, or any other requirements essential for the running thereof, the Administrator by No. 3 may authorize a refund of the licence fees.

Hospitals.—A variety of amendments are made in the Public Hospitals Ordinance, 1928, by No. 14. They cover such subjects as the constitution of the governing body and the procedure to be followed upon casual vacancies, as well as the powers of the Administrator in laying down the conditions to be observed in reference to the terms of appointment of members of the staff.

The Ordinance contains a novel feature, in so far that it does not appear in English legislation, in giving the almoner power to assess the contribution to be made by a patient, with the proviso that the Board or a committee appointed by the Board may in its absolute discretion vary any assessment.

Another section of the Ordinance deals with the financing of hospitals and makes provision in respect to the subsidies to be paid by the local authorities in respect to services rendered to patients who receive free treatment. It also provides for a subsidy of 20s. for every £ of cash received by the Board by way of subscription, gifts, donations, and bequests. There is a proviso that the annual donations from the bequests in support of a particular hospital at Amersfoort shall only be calculated on the basis of 10s. for every £ and that the subsidy payable in respect to any gift received from any one person during any one financial year shall not exceed £1,000 whatever may be the amount. Gifts in respect to purposes other than maintenance are only met with a subsidy of 10s. The Ordinance also makes provisions for the payments to be made in respect to accidents. In that connection there is an interesting definition of the expression "general ward" as meaning "a room or ward constructed, designed, and specially set aside for the accommodation therein of more than two in-patients."

Where the Board has collected funds for the specific purpose of meeting the cost of the erection and equipment of buildings a subsidy may be paid on the pound for pound basis up to an amount not exceeding one-half of the actual cost of such erection and equipment.

The finance section also includes a provision requiring the Board to submit estimates in the form prescribed by the Administrator of the Revenue and Expenditure on maintenance account and the receipts and payments on the capital account.

Ordinance No. 15 provides for the establishment of a Public Hospitals Advisory Council which consists of the Provincial Secretary or such other person as in the opinion of the Administrator has the necessary administrative and financial experience, the Secretary for Public Health or a person appointed by him, the Medical Director of Public Hospitals, two medical practitioners appointed by the Transvaal Medical Associations, four persons who in the opinion of the Administrator have had experience in, or have special knowledge of, some phase of hospital administration or finance, the Principal of every university in the Province which has a Faculty of Medicine and the Dean of that Faculty, and a person appointed by the Transvaal branch of the South African Trained Nurses Association

Public Health.—No. 20 provides for the constitution of a Board for the management of matters affecting the public health in certain areas not controlled by local authorities. The revenue of the Board consists of rates, fine imposed for the contravention of by-laws, dog licences, charges made for the supply of electricity, water and sanitary services and other fees recoverable by the Board. During the first year of the Board's existence the Provincial Revenue Fund will

pay a grant of £5,000, in the second year £2,500, and during the third year £1,250. The Board also has a prospect of getting something from the revenue on motor vehicles.

The Administrator possesses disciplinary powers by the appointment of Commissions of Enquiry to see that the Board is carrying on its work satisfactorily.

6. NORTHERN RHODESIA
and
7. SOUTHERN RHODESIA

[It is hoped to include these reviews in the next issue.]

VII. BRITISH INDIA

[*Contributed by* S. A. RAHMAN, ESQ.]

1.—Central Legislature

THERE was no change in the constitutional position during the year 1943 and no occasion arose for the Governor-General to invoke the special powers conferred on him by 67B of the old Government of India Act and kept alive by s. 317 of the Government of India Act, 1935. The legislative output for the year under review consisted of 30 Acts passed by the Central Legislature and 44 Ordinances and four Regulations made by the Governor-General.

Out of the 44 Ordinances promulgated by the Governor-General in the exercise of his powers under s. 72 of the old Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, as many as 23 were of a substantive character, the rest being repealing or amending measures. The substantive enactments were mostly designed to meet exigencies arising out of war conditions.

Enemy Agents.—The Enemy Agents Ordinance, 1943 (No. 1) sets up special courts for the trial and effective punishment of enemy agents and persons committing certain offences with intent to aid the enemy. Later in the year, a possible doubt regarding powers of review vested in the Reviewing Judge in cases where the lower court had passed an order of acquittal, was cleared by the promulgation of the Enemy Agents (Amendment) Ordinance, 1943 (No. 15).

Income Tax.—The Income Tax Proceedings Validity Ordinance, 1943 (No. 4) confers ex-post-facto validation on all assessment proceedings conducted by Assistant Income Tax Officers, and prospectively places these officers on a par with Income Tax Officers for the purposes of the Income Tax Act 1922. The measure was designed to meet the difficulty created by a decision of the Bombay High Court to the effect that the appointment of Assistant Income Tax Officers to perform the functions of Income Tax Officers was invalid.

Standard Time.—The Indian Standard Time (Interpretation of references) Ordinance, 1943 (No. 6) directs that any reference to Indian Standard Time in an existing British Indian enactment, shall be construed as a reference to Indian Standard Time fixed for the time being by order of the Central Government. This enables the Government to vary the difference between Indian Standard Time and Greenwich Mean Time by more than the normal difference of $5\frac{1}{2}$ hours and is calculated to prevent confusion in the interpretation of existing measures.

Reserve Bank.—Two Ordinances deal with affairs of the Reserve Bank of India. The Reserve Bank of India (Governor's Powers and Functions) Ordinance, 1943 (No. 12) makes provision for the functions of the Governor of the Bank to be carried on by Deputy Governor, in the event of a vacancy occurring in the post of Governor, till the appointment of the permanent incumbent. No such provision existed previously. The Reserve Bank of India

(Limitation of Dividends) Ordinance, 1943 (No. 20) limits the rate of cumulative and additional dividends to be paid by the Bank to shareholders to 4 per cent. per annum on the share capital of the Bank, while the Ordinance remains in force. The balance of the surplus of net annual profits of the Bank is directed to be paid to the Central Government by this Ordinance. It is essentially an anti-inflationary measure.

Essential Services.—The Essential Services (Telephone Employees) Ordinance, 1943 (No. 13) is designed to secure continuance in employment of essential personnel employed in certain company-worked telephone systems whose management was taken over by Government.

Excess Profits.—The Excess Profits Tax Ordinance, 1943 (No. 16) is another anti-inflationary measure. It gives power to make summary provisional assessment to Excess Profits Tax and provides for compulsory deposits of one-fifth of Excess Profits Tax assessed in respect of chargeable accounting periods ending December 31, 1942. It thus displaces the scheme of voluntary deposits hitherto in force as it was only partially successful.

Navy.—The Royal Indian Navy (Powers of Command) Ordinance, 1943 (No. 14) enables Viceroy's Commissioned Officers to exercise powers of command over forces of the Royal Indian Navy, when seconded or posted thereto.

Martial Law.—The Martial Law (Indemnity) Ordinance, 1943 (No. 18) indemnifies servants of the Crown and other persons in respect of acts done by them, and confirms orders passed during the Martial Law régime enforced in parts of Sindh, in 1942, to deal with the Hur menace.

Parole Centres.—The Parole Centres Ordinance, 1943 (No. 21) enables provision to be made for the maintenance of discipline in parole centres set apart for the residence of foreigners.

Crime.—The Special Police Establishment (War Department) Ordinance, 1943 (No. 22) sets up a special police force to investigate offences of corruption, cheating, embezzlement and the like, committed anywhere in British India, in connection with Departments of the Central Government and war contracts. A complementary measure is the Criminal Law Amendment Ordinance 1943 (No. 29) which enables the Central Government to establish special tribunals for the more speedy trial and effective punishment of such offences. This is virtually a substantive enactment.

Seamen.—The Discipline of Seamen Ordinance, 1943 (No. 24) corresponds to D.R. 47A made by His Majesty's Government and contains provisions for dealing with deserters and other offences committed by seamen on ships belonging to His Majesty. The existing law was confined to seamen serving on British ships registered in the United Kingdom only.

War Risks.—The purpose of the War Risks (Inland Vessels) Insurance Ordinance, 1943 (No. 25) is sufficiently indicated by its title. It also effects some formal amendments in the War Risks (Factories) Insurance Ordinance (No. 12 of 1942) and the War Risks (Goods) Insurance Ordinance (No. 9 of 1940).

Allied Forces.—The Allied Forces (Exemption from Local Taxation) Ordinance, 1943 (No. 28) seeks to exempt the members in British India, of establishments and forces of certain foreign powers allied with His Majesty and of certain foreign authorities, from payment of taxes imposed by local authorities in British India.

Nursing Services.—The Military Nursing Services (India) Ordinance, 1943 (No. 30) militarizes the nursing services in India so as to give their members equal military status with their counterparts in the British services.

Factories.—The Factories (Control of Dismantling) Ordinance, 1943 (No. 31) is designed to prevent transfer of factories set up in British India to Indian States or elsewhere, the object being partly to prevent loss of revenue to the Central Government resulting from transfer of factories to places outside British India with a view to escape taxation in British India and partly to relieve the strain

on transport, already overburdened by war demands. Factories can only be dismantled or machinery removed from a factory with the permission of the Central Government or of an officer authorized by it.

Military Stores.—The Military Stores (Unlawful Possession) Ordinance, 1943 (No. 33) extends the scope of s. 411 Indian Penal Code by placing the onus on the person found in possession of any military stores to prove that he came by them lawfully.

Subversive Activities.—The Subversive Activities Ordinance, 1943 (No. 34) aims at safeguarding the personnel of armed forces from being tampered with by enemy agents or fifth columnists. It subjects persons guilty of such acts to enhanced penalties as compared with those imposable for like offences under the Indian Penal Code.

Profiteering.—The Hoarding and Profiteering Prevention Ordinance, 1943 (No. 35) seeks to ensure an equitable distribution of all consumer goods except food grains and to restrict their prices within reasonable limits.

Prisoners of War.—The Prisoners of War (Forfeiture of emoluments) Ordinance (No. 36) provides for the suspension and forfeiture of all pay and allowance of Indian Commissioned Officers who desert to the enemy or who are found guilty of disloyal activities while in enemy hands, by a special military court of inquiry.

Military Operations.—The Military Operational Area (Special Powers) Ordinance 1943 (No. 37) invests the Military Commander and officers authorized by him with special powers, in certain areas on the eastern frontier of India, in order to enable them to deal promptly and effectively with offences which might endanger military operations. Certain new offences are created by this Ordinance and enhanced penalties are prescribed for some existing offences. Provision is made for their trial by special military courts.

Sugar.—The Sugar (Temporary Excise Duty) Ordinance, 1941 (No. 41) imposes a temporary excise duty on certain classes of sugar produced in India.

Out of the remaining Ordinances, five amended Acts of the Central Legislature, one repealed an existing Ordinance, and the other 14 introduced amendments in previous Ordinances.

The Essential Services (Maintenance) Amendment Ordinance 1943 (No. 2) restricts the power to lodge complaints of contravention of the Principal Ordinance 1914 given by s. 7 thereof, to servants of the Crown. The Penalties (Enhancement) Amendment Ordinance 1943 (No. 3) enlarges the scope of Ordinance 3 of 1942 (The Penalties Enhancement Ordinance) so as to place attempts, abetments and acts preparatory to commission of offences punishable under that Ordinance, on a par with the substantive offences themselves, in respect of penalties to be inflicted and prescribes enhanced punishment for certain offences. The Collective Fines (Amendment) Ordinance 1943 (No. 5) grants immunity from possible legal proceedings, to persons, for anything done in good faith or intended to be done under the Collective Fines Ordinance (No. 22 of 1942). Ordinances Nos. 7, 23, and 38 of 1943, introduce certain minor changes in the Civil Pioneer Force Ordinance (No. 10 of 1942). The War Risks (Goods) Insurance (Amendment) Ordinance 1943 (No. 8) effects certain minor amendments in the parent Ordinance (No. 9 of 1940) and further, enables goods imported into British India or a participating State, through any Indian port, to be insured under that Ordinance. Machinery is also provided for recovery, as arrears of land-revenue, of sums payable as insurance premia, in case of evasions of the Ordinance. The War Risks (Factories) Insurance (Amendment) Ordinance 1943 (No. 9) performs similar service in the case of the War Risks (Factories) Insurance Ordinance (No. 12 of 1942) and brings certain categories of machinery and buildings appurtenant to mines, within its purview.

Special Criminal Courts.—The Special Criminal Courts (Amendment) Ordinance, 1943 (No. 10) enables Provincial Governments to transfer, in certain circumstances, a case or appeal, from a Special Court in one area or district to a

Special Court in another area or district, as the case may be. The Special Criminal Courts Ordinance (No. 2 of 1942), however, was itself repealed by Ordinance No. 19 of 1943. The Federal Court had held in *Emperor* v. *Benoari Lal Sarma and others* (6 *F.L.J.* 1943, p. 79) that ss. 5, 10, and 16 of Ordinance 2 of 1942 were *ultra vires* in so far as they authorized executive officers, in their discretion, to allot cases for trial to Special Courts. These Special Courts were consequently abolished by the Repealing Ordinance, but sentences already passed under the repealed Ordinance were confirmed and validated, subject to rights of appeal assimilated to identical rights accruing under the Criminal Procedure Code, if trials had taken place in appropriate Courts under that Code. Pending cases were ordered to be transferred to ordinary courts for disposal in accordance with law, and servants of the Crown were indemnified in respect of any action taken under the repealed ordinance. Minor amendments were effected in this Repealing Ordinance by the Special Criminal Courts (Repeal) Amendment Ordinance (No. 26 of 1943) and again by the Special Criminal Courts (Repeal) Second Amendment Ordinance (No. 32 of 1943). The Indian Navy (Discipline) Amendment Ordinance, 1943 (No. 11) resolves a conflict between ss. 45 and 53 (7) of the Indian Navy (Discipline) Act (No. 34 of 1934).

Defence Regulations.—The Defence of India (Amendment) Ordinance, 1943, (No. 14) owes its promulgation to a ruling of the Federal Court in Keshav Talpade's case (6 *F.L.J.* 28), in which it was held that Rule 26 of the Defence of India Rules went beyond the rule-making powers conferred on the Central Government by clause (x) of s. 2 (2) of the Defence of India Act, 1939. The Amending Ordinance substitutes a new clause for the impugned clause, with retrospective effect, enlarging the rule-making powers of the Central Government, with a view to ensure valid detention of persons reasonably suspected of indulgence in prejudicial activities, to the satisfaction of the authority empowered to apprehend or detain such persons. Orders of detention heretofore passed under 26 D.I.R. were declared to be not open to challenge merely on the ground of that rule being *ultra vires* the old clause (x) of s. 2 (2) of the Defence of India Act, 1939.

National Service.—The National Service (Technical Personnel) Amendment Ordinance, 1943 (No. 27) lowers the minimum age of employment for technical personnel from 18 to 17 years. Certain changes are also made in the powers of the National Service Labour Tribunals in the interests of administrative efficiency. Opportunity is further taken, by amending s. 11 of the parent Ordinance, to prevent possible evasion by employers of their obligation to reinstate former employees and to make it clear that the privilege of reinstatement would not accrue to temporary employees and probationers.

Language of the Courts.—The Criminal Law Amendment (Amending) Ordinance 1943 (No. 39) provides that English would be deemed to be the language of the Court, in the case of special tribunals established under the principal Ordinance. A further list of cases triable by these special tribunals was added to the first schedule in the parent Ordinance, by the Criminal Law Amendment (Second Amending) Ordinance 1943 (No. 40).

Constabulary.—The N.W. Frontier Constabulary (Amendment) Ordinance, 1943 (No. 42) permits the employment of the Frontier Constabulary in Provinces other than the N. W. Frontier Province, in case of need, by amending Act 13 of 1915 and validates their employment in Behar and Sindh, which had already been ordered.

The Penal Deductions Ordinance 1943 (No. 43) enables fines to be imposed for breaches of discipline on military trainees while undergoing training in technical centres under charge of civilian heads. It amends s. 50 of the Indian Army Act for that purpose. The Defence of India (Second Amendment) Ordinance 1943 (No. 44) amends certain sections of the Indian Navy (Discipline)

Act 1934, through the medium of s. 6, clause 5, of the Defence of India Act, to meet conditions arising out of the war, as regards trials by Courts Martial.

Regulations.—Four Regulations were made by the Governor-General during 1943, under s. 95(3) of the Constitution Act, to amend certain existing regulations in force in British Baluchistan. They do not call for any remarks.

Acts passed by the Central Legislature

Of the 30 Acts passed by the Central Legislature in 1943, as many as 23 were Amending Acts. The enactments relate to a variety of subjects and are dealt with below in groups, according to their subject matter.

Trade, Business and Industry.—The Coffee Market Expansion (Amendment) Act, 1943 (No. 7) seeks to make more effective the Coffee Control Scheme enforced by the Coffee Market Expansion Act, 1942, in the interest of the producers. Under the existing statutory powers, the Coffee Market Expansion Board has to allot to each registered estate a certain percentage of its total estimated crop, as its internal sale quota, the balance of the crop being set apart for delivery to the surplus pool controlled by the Board. In order to bestow on the grower the fullest benefit of the ruling prices in the internal market by a system of uniform control, the Board has been empowered by the Amending Act, subject to sanction of the Central Government, to take into the surplus pool the entire crop of the registered estates in any year. Other amendments to the principal Act were found to be necessary as a result of further experience of the working of the Coffee Control Scheme.

Two Acts were passed relating to the Tea Industry. The International Tea Agreement (1938–43), to which the Tea Producers of India, Ceylon and the Netherlands Indies were parties, for regulation of the export of tea and the control of extension of tea cultivation and the Indian Tea Control Act 1938 which implemented that agreement as a result of an understanding arrived at between the Governments of these three countries, were due to expire on March 31, 1943. The Indian Tea Control (Amendment) Act 1943 (No. 12) extends the existing agreement beyond March 31, 1943, for the period of the present hostilities and two financial years thereafter. Other changes were made in the old Act in the light of experience gained in the working of the Tea Control Scheme. The Indian Tea Control (Second Amendment) Act 1943 (No. 29) besides removing certain verbal defects in the Act of 1938, makes provision for exemption from the requirements of export licences, small gift parcels of tea sent for troops overseas, under the auspices of the Directorate of Welfare and Amenities and vests power in the Central Government to authorize the Indian Tea Licensing Committee to refuse the grant of special export licences.

The Trade Marks (Amendment) Act 1943 (No. 15) further amends the Trade Marks Act 1940 with a view to centralize registration of both textile and non-textile trade marks at one centre, under the jurisdiction of a single authority. The experiment introduced by the previous Amending Act of 1941, of having two independent registries in respect of Textile Trade Marks at Calcutta and Bombay, with the jurisdiction of the two Registrars defined on a territorial basis, had led to grave administrative difficulties in the working of the principal Act. The Indian Companies (Amendment) Act 1943 (No. 30) was designed to meet a difficulty created by a judicial decision. Following the recognized practice of banking companies in India and the United Kingdom, such companies were by a notification in 1927, under s. 151 of the Indian Companies Act 1943, relieved from the obligation to disclose in Form F in the third Schedule to the Act, those bad and doubtful debts for which adequate provision had been made in their accounts, to the satisfaction of the auditors. When the Indian Companies (Amendment) Act 1936 was brought into force in January 1937, a similar notification was issued on Jan 16, 1937. The Bombay High Court held this notification to be *ultra vires* in so far as it sought to distinguish banks

from other companies. The Amending Act legalizes the long-standing practice followed by the banks.

Law and Justice.—The Code of Civil Procedure, 1908, was amended by Act 5 of 1943. The latter Act substitutes the expression " servant of the Crown " for the restricted phrase " public officer " in clauses (i) and (l) of the proviso to sub-section (1) of s. 60 of the Civil Procedure Code, so as to extend the protection afforded by these clauses regarding immunity from attachment of certain portions of salary, to certain Government servants of the artisan class and carries out consequential changes in other provisions of the Act. A possible source of ambiguity was also removed by a slight rearrangement of the wording of clauses (h) and (l) of s. 60 of the Act.

The Indian Penal Code (Amendment) Act 1943 (No. 6) fills up a lacuna in the present law by declaring it to be an offence to produce or reproduce imitations of currency and bank notes for any purpose as it was realized that deception might be practised with such imitations.

The Code of Criminal Procedure, 1898, was amended by three Acts during the year. The Criminal Procedure Amendment Act 1943 (No. 26) makes provision for a restricted right of appeal in criminal cases, against decisions of a High Court exercising its original jurisdiction, on the lines of the Criminal Appeal Act 1907 (7 Edw. VII, c. 23), to a Division Bench of the same High Court, composed of Judges other than those holding the original trial or in certain circumstances, to a Division Bench of another High Court. A further appeal to the Privy Council, from the appellate decision is also provided for. Consequential amendments were made in the Letters Patents of the High Courts and certain other Acts. The Code of Criminal Procedure (Amendment) Act 1943 (No. 27) by an amendment of s. 503 of the Criminal Procedure Code, authorizes a Political Officer in an Indian State to forward a commission issued to him for the examination of a witness residing in the State, for execution to a duly recognized State court exercising jurisdiction in the appropriate area. It also makes some consequential and formal changes in the Act. The Code of Criminal Procedure (Second Amendment) Act 1943 (No. 28) is designed to meet conditions created by the war. S. 198 of the Criminal Procedure Code requires that complaints in respect of *inter alia*, the offence of bigamy (s. 494 I.P.C.), shall be made by some person aggrieved and s. 199 lays down that complaints in respect of adultery and enticement of a married woman shall be made by the husband, or in his absence and with the leave of the Court, by some person who had care of such woman, on his behalf. The latter's interest may not always be identical with that of the husband. The Amending Act therefore relaxes the provisions of these sections and enables a husband serving in His Majesty's armed forces, to authorize some person other than those contemplated in these sections to lodge a complaint in court, in respect of an offence of bigamy. A new section 199B is added to the Code, prescribing a form of authorization which must be accepted as genuine by the courts, in the absence of proof to the contrary, provided certain requirements have been complied with.

Local and Personal.—The Delhi Muslim Wakfs Act, 1943 (No. 13) is a consolidating measure, incorporating some of the provisions of the Charitable and Religious Trusts Acts 1920 and of the Musalman Wakfs Act 1923—the latter Act being repealed. The powers and duties of the Board of Revenue under the Bengal Charitable Endowments, Public Buildings and Escheats Regulation 1810, have, in so far as Wakfs dealt with in this Act are concerned, transferred to two governing bodies set up under the Act for the proper administration of Sunni and Shia Wakfs respectively, in the Delhi Province. The schemes of management to be settled by the governing bodies are made subject to modification by a competent court, at the instance of any interested persons. Provision is made for meeting the expenses of the governing bodies by the levy of a contribution from Wakf estates. The Mutwallis would henceforward work under

directions of these bodies and no valid alienations of Wakf property would be possible except with their previous sanction.

The Aligarh Muslim University (Amendment) Act 1943 (No. 4) makes certain minor alterations in the principal Act to facilitate changes in the University's Ordinances, during the war emergency.

The Delhi University (Amendment) Act. 1943 (No. 24) makes important changes in the Delhi University Act 1922. It provides for the introduction of a three-year degree course, which was an essential feature of a scheme of development prepared by the Vice-Chancellor, Sir Maurice Gwyer. The power to accord recognition to or withdraw recognition from individual colleges, previously vesting in the University Court, is transferred to the principal executive body of the University viz. the Executive Council. Provision is made for the appointment of a whole time paid Vice-Chancellor and other changes, dictated by experience, are made in the principal Act.

Army and Defence.—The Indian Army and Air Force (Military Prisons and Detention Barracks) Act (No. 14) amends ss. 107 and 109 of the Indian Army Act and ss. 113 and 116 of the Indian Air Force Act, to permit of the imprisonment in military custody of persons sentenced to imprisonment exceeding three months, and adds certain sections to the two Acts empowering the Central Government to establish military prisons and to make rules for their management. The measure is partly aimed at relieving congestion in civil jails and partly at conserving manpower, as committal to a civil prison of a person subject to the Indian Army Act or the Indian Air Force Act would have entailed his discharge from service.

The Indian Army and Indian Air Force (Amendment) Act, 1943 (No. 21), amends the Indian Army Act, 1911, and the Indian Air Force Act, 1932, mainly on the lines of the Army and Air Force (Amendment) Act, 1942 (5 & 6 Geo. VI, c. 15). It deals with the powers and procedure of military courts as regards trials of offences committed by members of the Indian Army and the Indian Air Force.

Fiscal.—The Indian Finance Act, 1943 (No. 8) fixes the rate of levy for the year 1943 of taxes and charges already in force. The existing rate of salt duty was maintained, but inland postage rates on letters exceeding one tola and parcels exceeding 40 tolas were slightly enhanced. The basic rates of income tax and super tax were continued as before, but certain graded increases were made in the central surcharge on income tax and super tax. Additional customs duties imposed by s. 6 of Act XII of 1942 and the existing rate of excess profits tax (66⅔ per cent.) were continued at their current level.

The Tobacco (Excise Duty) Act, 1943 (No. 10), taps a new source of revenue in the interests of an expanding budget, by imposing a duty of excise on all forms of tobacco except tobacco grown for the personal consumption of the grower or members of his household. The schedule of duties is steeply graded so as to levy the tax on the various classes of consumers in proportion to their capacity to pay and is so adjusted as to entail an average increase of approximately 20 per cent. in retail prices. The Act provides for the quantity of unmanufactured tobacco which may be possessed by private persons to be limited, under a notification. Certain operations like curing, wholesale purchase or sale, storage or manufacture of tobacco are made subject to a licence, as an essential aid to the levy and collection of the duties. Penalties are prescribed for breaches of the provisions of the Act. The Vegetable Product (Excise Duty) Act, 1943 (No. 11), is also a revenue-raising measure. It imposes an excise duty of Rs. 5 per cwt. on all vegetable oils and fats which have been hardened for human consumption.

Miscellaneous.—The Motor Vehicles (Amendment) Act, 1943 (No. 1) postpones the operation of c. VIII of the Motor Vehicles Act, 1939 relating to the compulsory insurance of motor vehicles against third-party risks, to July 1, 1946,

instead of July 1, 1943. It was realized that it would place an undue burden on car-owners and insurance companies if the principal Act came into force during war-time. The Government Savings Bank (Amendment) Act, 1943 (No. 2), is designed to accelerate the disposal of claims to deposits of deceased persons in Government Savings Banks. The Act authorizes the appropriate authority to pay over a deposit made by a deceased person to any person appearing to be entitled to receive it or administer the estate of the deceased, without probate of his will or letters of administration of his estate or a succession certificate being produced, provided the deposit does not exceed Rs. 5,000. The Indian Railways (Amendment) Act (No. 3) makes railway liable to pay compensation in all train accidents, whether due to negligence or not, but limits the liability in all such cases to the fixed sum of Rs. 1,000 as compensation for death, injury, or loss in the case of any individual passenger.

The Reciprocity Act, 1943 (No. 9), declares in its preamble that it is intended to make provision on a basis of reciprocity, in regard to entry into, travel, residence, the acquisition, holding or disposal of property, the enjoyment of educational facilities, the holding of public office, or the carrying on of any occupation, trade, business, or profession in British India by, and the franchise in British India of, persons domiciled in British Possessions. The disabilities to which Indians overseas are subjected is the *raison d'être* of the measure which was designed to provide a sanction to the Government of India whenever negotiations with an offending country in the British Empire failed. The Act is only declaratory and would come into force on such date and with regard to such British possession as the Central Government may declare in the *Official Gazette*. Exception is made in favour of persons in the armed forces of a British Possession until the expiry of one year after the termination of the present hostilities. The Act was sponsored by a private member and later in the year was amended by the Reciprocity (Amendment) Act, 1943 (No. 22). The amending Act vests power in the Government to impose like disabilities on persons domiciled in British Possessions, excluding British India, as have been imposed on persons of Indian origin and thus makes the principal Act workable in practice. The Muslim Personal Law (Shariat) Application (Amendment) Act (No. 16) clears an ambiguity in s. 3 of the parent Act and corrects an error in s. 6 of that Act.

The Indian Boilers (Amendment) Act, 1943 (No. 17), removes a lacuna in the principal Act by providing for inspection of the boiler feed water system. The Mines Maternity Benefit (Amendment) Act, 1943 (No. 18), clears an ambiguity in the provisions of the Mines Maternity Benefit Act, 1941.

The Motor Vehicles (Drivers) Amendment Act 1943 (No. 19), makes provision for reinstatement in their former employments of drivers whose services may have been requisitioned under Ordinance 5 of 1942, on termination of their compulsory service under the Ordinance. The Act also safeguards the position of an employee who is about to be called up for service and who is dismissed by his employer in order to evade the liability to reinstate him. The Agricultural Produce (Grading and Marking) Amendment Act, 1943 (No. 20), expands the ambit of s. 3 (*f*) of the parent Act so as to enable Government to recover the costs of measures necessary to control the quality of Agmark products and of any trade publicity undertaken by Government to popularize such products from the trades concerned.

The War Injuries (Compensation Insurance) Act, 1943 (No. 23), was enacted to give adequate compensation to certain categories of higher-paid labour, in case of war injuries, as it was found that the War Injuries Scheme propounded under the War Injuries Ordinance (7 of 1941) did not meet the requirements of such labour. The Act imposes on employers of essential services of factory and mine labour, in major ports and other employments to be specified, an obligation to pay compensation in respect of war injury to their workmen, calculated to

amount to the difference between the amount paid by Government under the War Injuries Scheme and the amount which would have been payable under the Workmen's Compensation Act (8 of 1923) if the war injury had given a right to compensation thereunder. To safeguard the interests of employers whose factories may be liable to serious damage by enemy action, the Act provides for compulsory insurance with the Central Government, by employers throughout India, of the extra liability incurred by them under the Act, which follows closely the lines of the War Risks (Goods) Insurance Ordinance, 1940, and the War Risks (Factories) Insurance Ordinance, 1942. The Act also extends the scheme of insurance to employers in Indian States provided that provisions substantially corresponding to the provisions of the Act are made in such States.

The Victoria Memorial (Amendment) Act, 1943 (No. 25), validates and authorizes for the future the procedure being followed by the trustees of the Victoria Memorial, of acting on decisions arrived at, by circulating to the trustees a matter requiring decision, and obtaining a majority decision without holding a formal meeting of the trustees. This procedure had been evolved in practice as a convenient mode of transacting business.

2. MADRAS

[*Contributed by* P. APPU NAIR, ESQ.]

NUMBER of Acts, 31.

Agriculturists' Relief.—Act XV validates certain rules issued under the Madras Agriculturists' Relief Act, 1938, enabling the parties concerned to apply to the court for a declaration of the amount of the debt as scaled down, due by the debtor, and to prefer an appeal against such a declaration and certain orders of the court.

Co-Operative Societies.—Act XX applies certain provisions of the Madras Co-operative Societies Act, 1932, and the rules made thereunder, to the recovery of sums due to co-operative societies in the Province of Orissa from members of such societies residing in this Province.

Criminal Tribes.—Act XXIX substitutes the expression "notified tribe" for "criminal tribe" in the Criminal Tribes Act, 1924. It enables the Government to issue a notification applying certain provisions of the main Act and not necessarily all its provisions to persons addicted to the commission of non-bailable offences, gives the district magistrate discretion to hold in abeyance any direction requiring a registered member of a notified tribe to report himself at fixed intervals, and also amends the main Act in certain other respects.

Debt Conciliation.—Act IX lays down that the failure of a creditor to furnish the statement required by s. 10 (1) of the Madras Debt Conciliation Act, 1936, in respect of any debt shall only bar him from challenging the accuracy of the particulars as to the debt given in the debtor's application and shall not discharge the debt.

Act XXXI authorizes the Government to direct that a Debt Conciliation Board should not receive fresh applications after a specified date and that applications received after a specified date and not disposed of before the date first mentioned should not be proceeded with.

Elementary Education.—Act XXVIII makes it clear that exemptions from the water and drainage, lighting, or scavenging tax under the Madras City Municipal Act, 1919, or the Madras District Municipalities Act, 1920, should not be taken into account when determining the education tax. The Act also legalizes the levy of education tax made before its commencement on the basis of the above construction.

Irrigation.—Act XVIII authorizes the Government to repair or improve any existing private irrigation works, to construct new irrigation works on private lands, and to supply water from Government irrigation works to private irrigation works and to charge fees for such supply.

Legal Practitioners.—Act III empowers the High Court to make orders regarding the payment of the cost of inquiries held in cases of professional misconduct by legal practitioners and provides for the more effective suppression of touting by the appointment of advisory committees and by conferring additional powers on subordinate courts and authorities.

Local Government.—Act VI enables municipal councils to levy property tax on lands used exclusively for agricultural purposes at a rate higher than that at which property tax is levied by them on buildings.

Act XI prohibits the Corporation of Madras or its Standing Committee from considering any proposals for the amendment of the establishment schedule of the corporation except at the instance of the Commissioner.

Act XIII provides for the resumption of control over endowments which have been transferred to district boards and enables the district collector to fix the rent value of lands in proprietary estates once in three years.

Act XIX provides for the appointment of executive officers in panchayats notified by the Government and defines the duties and powers of such officers.

Lunacy.—Act XII provides for the temporary discharge of lunatics who have been detained under certain provisions of the Indian Lunacy Act, 1912, when such discharge is necessary in the interest of the health of the lunatics.

Medical Registration.—Act IV provides for the constitution of an executive committee of the Madras Medical Council and for the delegation by the council of any of its powers and duties to the committee. The Act raises the fee levied for the registration of medical practitioners from Rs. 15 to Rs. 20, and provides for the levy of a fee of Rs. 5 for the registration of practitioners who are registered elsewhere in British India, or for the registration of a registered practitioner under a new name. The Act defines the functions of a committee of the council while making an inquiry under s. 13 or s. 16 of the principal Act and provides for the election of a member of the Medical Council by the Senate of the University instead of by the Academic Council.

Pawnbrokers.—Act XXIII is designed to regulate and control the business of pawnbrokers in the Province. The Act requires every pawnbroker to obtain a licence in respect of his shop or place of business. The maximum rate of interest which may be charged by a pawnbroker and the time within which the pledge may be redeemed (in the absence of an agreement between the parties) are fixed by the Act. The Act also requires pawnbrokers to maintain proper pledge books, accounts, and other documents either in English or in the prescribed language of the locality.

Presidency Small Cause Court.—Act VII validates the proceedings and acts of the Court of Small Causes of Madras during the period of about two months when the court was located outside the presidency town of Madras.

Presidency-Towns Insolvency.—Act V makes the Official Assignee, his deputy or deputies and his establishment a part of the staff of the High Court. It also lays down that all moneys which are likely to constitute a surplus in the hands of the Official Assignee should be transferred to the account and credit of the Provincial Government and that such transfer should not in any way impair the rights of persons having claims against those moneys.

Prohibition.—Act XXII provides for the suspension of the operation of certain provisions of the Madras Prohibition Act, 1937, in the districts in which it is now in force and the revival of the Madras Abkari Act, 1886, in those districts.

Restriction of Habitual Offenders.—Act XXX provides for the application of the Criminal Tribes Act, 1924, to individual habitual offenders so that, where necessary, restrictions may be placed on the movements of such offenders or a duty laid on them to notify their residences, etc., as provided in the Criminal Tribes Act, 1924.

Taxation.—Act I provides for the transfer of the administration of the

Madras Sales of Motor Spirit Taxation Act, 1939, from the Land Revenue to the Commercial Taxes Department.

Act II secures that the price of electricity sold to the Central Government for consumption by that Government or to the Federal Railway Authority or a railway company operating a Federal Railway for consumption in the construction, maintenance, or operation of a Federal Railway shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.

Act VIII reduced the general sales tax payable for the year commencing on April 1, 1943, from Rs. 5 to Rs. 4 a month in the case of persons whose turnover does not exceed Rs. 20,000 and from one-half of 1 per cent. to one-quarter of 1 per cent. of the turnover in other cases.

Act XVI increases the taxation leviable in this Province as an anti-inflationary measure by doubling the stamp duty in the case of certain instruments which are exclusively or principally connected with business and by increasing the stamp duty by 50 per cent. in certain other cases.

Act XVII amends with effect from October 1, 1943, (i) the Madras Betting Tax Act, 1935, to raise the maximum of the totalisator tax and the tax on bets made with bookmakers from 4 to 6¼ per cent.; and (ii) the Madras General Sales Tax Act, 1939, to restore the original rate of tax, namely, Rs. 5 a month in the case of dealers whose turnover is between Rs. 10,000 and Rs. 20,000 per annum and to raise the rate of tax to 1 per cent. of the turnover where it exceeds Rs. 20,000.

Tuberculosis Sanatoria.—Acts XIV and XXIV provide for the control of building operations in the vicinity of the tuberculosis sanatorium at Madanapalle in the Chittoor District and at Tambaram in the Chingleput District respectively, and for the exclusion, modification, or restriction of enactments relating to public health from or in the neighbourhood of the sanatoria.

Universities.—Act X enables the Vice-Chancellor of the Annamalai University to hold anticipatory elections to the university bodies not earlier than two months from the date of their reconstitution.

Act XV removes the prohibition imposed by s. 26 (*c*) of the Andhra University (Second Amendment) Act, 1942, in the case of vacancies in seats on the Syndicate and the Finance Committee to which nominations are made by the chancellor. It also makes it clear that the provisions of clauses (*a*) and (*c*) of s. 26 were not intended to apply to *ex-officio* or life members of any university authority, or to the members of the Senate holding office under s. 15, class III (8), of the Andhra University Act, 1925.

Act XXVI omits the references to Ganjam in the Andhra University Act, 1925.

Act XXVII enables the Madras University to institute, maintain, and manage colleges and laboratories of its own outside the "limits of the university" and to confer degrees and other academic distinctions on students who have pursued approved courses of study in such colleges and laboratories and passed the prescribed examinations.

Village Offices.—Act XXI allows a minor registered as heir to a village office under the Madras Proprietary Estates' Village Service Act, 1894, or the Madras Hereditary Village-offices Act, 1895, a period of five years from the termination of his war service to qualify for the office.

3. BOMBAY

[*Contributed by* P. N. Moos, Esq.]

Rationing.—The object of Act No. I (The Bombay Rationing Preparatory Measures Act, 1943) is to provide for the numbering of premises and collecting information about persons as measures preparatory to the rationing of articles or things essential to the life of the community.

Dogs.—Act No. II (an Act to amend the City of Bombay Municipal Act, 1888). The object of this Act is to invest the municipality with the power to control the keeping and rearing of dogs on private premises by providing for licensing of dogs kept in the city.

Extension of Legislation.—Act No. III (An Act to amend the Bombay Finance Act, 1932) and Act No. IV (an Act to amend the Bombay Rent Restriction Act, 1939) for one more year, and Act No. V (an Act to amend the Bombay Small Holders Relief Act, 1938). The object of the Act is to extend the life of the Act of 1938 for two more years.

1943-1944

DURING the period under report between April 1, 1943, and March 31, 1944, the following Acts and Regulation were made by the Governor of Bombay; the Acts were made in exercise of the powers of the Bombay Legislature assumed by him under proclamation dated November 4, 1939, issued under s. 93 of the Government of India Act, 1935, and having received the assent of the Governor or the Governor-General, as the case required, became law. The main purposes of each of the Acts and the Regulation are briefly stated below:—

(A) *Acts made by the Governor of Bombay.*

City of Bombay.—By Bombay Act XIII of 1938, s. 74 of the City of Bombay Municipal Act, 1888, was amended, whereby the maximum salary payable to the municipal hydraulic engineer was reduced from Rs. 1,800 p.m. to Rs. 1,500 p.m. The object of No. VI is to allow the incumbent of the office at the commencement of Bombay Act XIII of 1938 to receive a monthly salary not exceeding Rs. 1,800 on reappointment.

The object of No. VII is to make landlords punishable for the repeated letting out of their premises to prostitutes in spite of notices by the police to the contrary.

The object of No. VIII is to extend the life of the corporation for a further period of one year, that is till March 31, 1945.

Waste Lands.—No. IX repeals Waste Lands (Claims) Act, 1863, to which resort has not been made, except in parts of a few districts, in disposing of waste lands, as the provisions of the Bombay Land Revenue Code, 1879, are found quite adequate for protecting the rights of Government and other parties in dealing with claims to such land.

Marriage.—No. X was enacted to validate the marriage between two Christian subjects of His Majesty solemnized by a Methodist chaplain in good faith in the belief that he was authorized under s. 6 of the Indian Christian Marriage Act, 1872, to do so, although not so authorized.

Betting Tax.—By No. XI the totalisator tax and betting tax are increased to 10 per cent.

Weights and Measures.—The object of No. XII is to amend s. 22 of the Bombay Weights and Measures Act, 1932, so as to make it obligatory on traders to produce for inspection weights and measures in their possession.

Entertainments Duty.—No. XIII enhances the duties leviable under the Bombay Entertainments Duty Act, 1923.

Stamp Duties.—The object of No. XIV is to increase the stamp duties leviable under the Indian Stamp Act, 1899, in its application to the Province of Bombay by a surcharge.

Court Fees.—The object of No. XV is to increase the court fees leviable under the Court-fees Act, 1870, in its application to the Province of Bombay.

Co-operative Societies.—The object of No. XVI is to provide for arbitration in cases of internal disputes and a summary procedure for the settlement and recovery of the dues of Land Mortgage Banks, as also to give arbitration awards or liquidators' orders the status of a decree.

Options in Cotton.—The object of No. XVII is to take power to enable Government to apply bylaws and amendments made under the 1939 Act retrospectively. The immediate object was retrospective validation of certain contracts technically contravening one of the East India Cotton Association bylaws.

Public Conveyances.—The object of No. XVIII is to amend the definition of the expression " public conveyance " to include a " cycle-riksha."

Legislature.—The object of No. I of 1944 is to provide that a person holding or accepting an office created for a purpose connected with the prosecution of the war should not be disqualified for election to or continue as a member of either Chamber of the Bombay Legislature.

Police.—The object of No. II of 1944 is to remove doubts regarding the power of the magistrate of a district to prescribe and levy fees under s. 39A of the Bombay District Police Act, 1890, for licensing theatres and other places of public amusement, entertainment, or assembly.

Land Improvement.—The object of No. III of 1944 is (*a*) to empower Boards constituted under the Act of 1942 to make and enforce regulations for carrying out the objects of land improvement schemes; (*b*) to provide for the recovery of unpaid instalments of the cost of a scheme as arrears of land revenue, as large schemes covering extensive areas have to be carried out at Government cost in the first instance; and to extend the scope of sub-section (1) of s. 25 of the Act of 1942 to enable Government to direct the preparation of a land improvement scheme not only, as heretofore, in areas in which a state of famine or scarcity prevails or is likely to prevail, but also in cases in which a subsidy is provided by Government or a trust for a scheme, or a scheme is necessary in the interests of the Members of His Majesty's forces (whether serving or retired) and their dependants.

Finance.—The object of No. IV of 1944 is to extend the life of the Act of 1932 for a further period of one year, subject to a reduction of the rates of Urban Immovable Property Tax from $7\frac{2}{3}$ per cent. to 7 per cent and $3\frac{5}{6}$ per cent. to $3\frac{1}{2}$ per cent.

Rent Restriction.—The object of No. V of 1944 is to extend the life of the Bombay Rent Restriction Act, 1939, for a further period of one year.

(B) *Regulation made by the Governor of Bombay.*

Bombay Regulation No. 1 of 1943 (Indian Tariff (Bombay Application) Regulation, 1943).—The object of the Regulation is to apply the provisions of the Indian Tariff Act, 1934, as amended from time to time, retrospectively to certain partially excluded areas in the Province of Bombay.

4. BENGAL

SEVEN Acts were passed, six Regulations made, and four Ordinances promulgated by the Governor's authority during the year 1943.

Vagrancy.—The only measure of any length was No. VII, which made provision for dealing with vagrancy. It creates a Board to administer the Act. A vagrant is defined to be any person not being of European extraction found asking for alms in any public place. The vagrant may be taken before a special magistrate by a police officer, and upon being declared by him to be a vagrant may then be taken to a receiving centre for medical examination with a view to his reception into a home. The Act provides for the management of the homes, including that the manager shall use his best endeavours to obtain outside the vagrants' home employment for vagrants detained therein.

Four of the Regulations apply various Acts to the Chittagong Hill Tracts.

Destitute Persons.—In addition to the Vagrancy Act, the Governor also had to deal by Ordinance No. II with persons wandering in a destitute condition in Calcutta and other urban areas.

5. UNITED PROVINCES

TWELVE Acts containing small amendments were passed in 1943.

Indemnity.—No. VI is an Act to indemnify servants of the Crown and other persons in respect of acts ordered or done or purporting to be ordered or done in good faith in the reasonable belief that the act was necessary for the purpose of maintaining or restoring order.

War Taxation.—The Governor under s. 93 of the Government of India Act, 1935, is empowered to increase the tax on entertainments and betting for purposes connected with the war and the period immediately after the war. Court fees may be increased by No. VIII and stamp duties by No. IX in similar terms to the increase of the entertainment tax.

Sugar.—The Sugar Factories Control Act, 1938, is amended by No. XII in order to establish a cane varieties advisory committee for the Province for the purpose of recommending the varieties of cane which are suitable or unsuitable for use in a factory. The Act also strengthens the control over the supplies to the factories.

6. PUNJAB

TEN Acts, chiefly small amendments, were passed in the year 1943.

Local Authorities.—No. II was passed to prevent members of local authorities from being disqualified owing to war service.

Maternity.—The object of No. VI was to regulate the employment of women in factories for certain periods before and after childbirth and to provide for the payment of maternity benefit to them. The period is 30 days before and after the confinement. The payment is made by the employer and the woman must have been in his employment for not less than nine months preceding the day of her delivery. No notice of dismissal can be given to a woman during her absence in accordance with the provisions of the Act. If a woman does any work in a factory for which she receives payment in cash or kind after she has been permitted by her employer to absent herself she is liable to a fine of ten rupees. An abstract of the provisions of the Act and the rules thereunder in the local vernaculars are to be exhibited in a conspicuous manner in every part of the factory in which women are employed.

Sugar.—The Sugar Cane Act of 1934 is strengthened by No. IX, especially in reference to the conditions under which factories may be established and their management.

Shop Hours.—The Trade Employees Act of 1940 is amended by No. X with a view to distinguishing the different types of establishments to which the hours of employment are applied and the extent to which young persons may be engaged in them.

7. BIHAR

[*Contributed by* RAI BAHADUR N. C. RAY.]

TEN Acts were enacted during the year 1943. These Acts were enacted by His Excellency the Governor of Bihar by virtue of the legislative powers assumed to himself by the Proclamation, dated November 3, 1939, issued by him under s. 93 of the Government of India Act, 1935.

Recovery of Public Demands.—Act No. 1 amends the Bihar and Orissa Public Demands Recovery Act, 1914, to provide for the recovery as a public demand of arrears of dues payable for the supply of electrical energy and water under the Dehri-Sasaram Electrification Scheme and the Dehri-Sasaram Lift Irrigation Scheme respectively.

Cess.—Act No. 2 amends the Bihar Refund of Cess Act, 1940, by permitting applications to be made by certain landlords for refund of cess paid by them

at the old rates during certain periods in spite of the reduction of rents, in respect of which cess was paid, during these periods.

Law and Order.—Act No. 3 gives protection to officers of Government who during the emergency caused by the civil disturbances of August, 1942, were obliged by the imperative need of restoring order to take measures not strictly covered by a provision of law.

Act No. 6 gives statutory recognition to the organization of village patrols acting under the headman appointed by the district magistrate for the guarding of communications and Government property with a view to prevent damage thereto similar to that which occurred during the civil disturbances of August, 1942.

Act No. 7 is designed to check thefts of certain articles, particularly iron and steel, from mines, railways, and other industrial places, which have become very common in Bihar.

Sugar Factories.—Act No. 4 amends the Sugar Factories Control Act, 1937, mainly to give statutory recognition to the sugar-cane varieties advisory committees and to empower Government to declare that certain varieties of cane are unsuitable for use by factories in specified areas.

Municipalities.—Act No. 5 seeks to remove the difficulties caused by the destruction, during the civil disturbances of August, 1942, of a part of the records of the Patha City Municipality, by empowering the municipal commissioners to reconstruct the necessary papers relating to the arrears and current demands of taxes payable by ratepayers of that municipality.

Taxation.—The object of Acts 8 to 10 is to combat inflation by imposing a surcharge not exceeding the amount of the tax payable under the Bihar Entertainments Duty Act, 1937, and of approximately 25 per cent. on all court fees and stamp duties leviable respectively under the Court-fees Act, 1870, and the Indian Stamp Act, 1899, as in force in Bihar. Acts 8 to 10 are not designed as ordinary revenue-producing measures and their proceeds will increase the fund which is being created to provide money for post-war reconstruction.

Two Regulations were made by the Governor under s. 92 (2) of the Government of India Act, 1935, during the period under review.

The Santal Parganas Laws Regulation, 1943, extends to the Santal Parganas the provisions of s. 5 of the Indian Finance (Supplementary and Extending) Act, 1931, in so far as they relate to the levy of an additional duty on salt.

The Santal Parganas (Payment of Commission to Headmen) Amendment Regulation, 1943, makes formal amendments in the Santal Parganas (Payment of Commission to Headmen) Regulation, 1942.

8. CENTRAL PROVINCES AND BERAR

SIX Acts were passed during the year.

Debt Relief.—S. 23 of the Relief of Indebtedness Act 1939 is amended by No. 2 so as to make clear that the Court can resume proceedings and make orders in regard to them in any matter which has been stayed under the Act.

9. ASSAM

[It is hoped to publish the review in the next issue.]

10. NORTH-WEST FRONTIER PROVINCES

SEVEN Acts were passed in the year.

Legislative Assembly.—No. 5 exempts members of the Legislative Assembly from disqualification owing to war service.

Provision is made by No. 7 for an increase of the daily allowances to members.

Local Authorities.—The Provincial Government is authorized by No. 6 to extend the term of office of any village council or of any councillor thereof.

11. ORISSA

12. SIND

[It is hoped to publish the reviews in the next issue.]

13. COORG

[*Contributed by* CHIEF COMMISSIONER OF COORG.]

Public Health.—It was the object of Government from a long time to take effective measures for the improvement of the health of the general public. As a first step to achieve this object the Public Health Department was reorganized with effect from April 1, 1937, as a result of which the public health staff of the Coorg District Board (vaccine inspectors and vaccinators) was taken over by Government to work under the direct control of the civil surgeon, who is also the *ex-officio* Health Officer for Coorg. A year later a committee called the Coorg Public Health Committee was formed in order to give advice on matters relating to the general public health throughout the Province.

In the meanwhile, in August, 1938, the Public Health Commissioner with the Government of India suggested that legislation should be introduced in the municipalities and notified areas to make tuberculosis a notifiable disease. But instead of undertaking such piece-meal legislations it was thought desirable to introduce a more comprehensive form of legislation on the lines of the Madras Public Health Act, 1939, with necessary alterations to suit local conditions. This was because the local enactments, viz., the Coorg District Fund Regulation, 1900, the Coorg Municipal Regulation, 1907, and the Coorg Village Panchayat Act, 1926, do not contain adequate and elaborate provisions for the control of public health. Accordingly the Coorg Public Health Bill was introduced in the Council at its autumn session in October, 1941, and after it was scrutinized by a select committee in 1942 it was finally passed in Council in October, 1942, and received the assent of the Governor-General in April, 1943, as Act No.I of 1943.

The more important provisions of the Act are effective control of water supply, drainage, and sanitary conveniences in the local areas, to which the provisions of the Act have to be extended. Provision has been made for the levy of a water tax which will enable the local bodies to raise funds for the improvement of water supply and it is hoped that they will have recourse to this measure. Provision has also been made in the Act for the abatement of nuisances, prevention, notification, and treatment of infectious diseases, construction and maintenance of buildings in a sanitary manner, and mosquito control. At present two big jatras (festivals) are held in Coorg in addition to some cattle fairs and small festivals. For the two big jatras (Talakaveri jatra and Irpu jatra), people from other parts of India come. Provision has therefore been made in the Act to notify such fairs and festivals and for the levy of a toll on vehicles and animals that enter the area of such notified fair or festival centre. Provision for the levy of a tax on pilgrims on the lines of the Madras Public Health Act, was not made in the Coorg Act as the proposal was opposed to popular opinion. The proceeds of the toll will be utilized for providing amenities for the pilgrims and for making necessary sanitary arrangements The following provisions of the Madras Act were not included in the Coorg Act as they were not considered necessary under the present circumstances:—Maternity and child welfare; control over insanitary buildings and over-crowding; lodging-houses; finance.

Most of the provisions contained in the Madras Act relating to food control have been incorporated in the Coorg Pure Food Act, 1940, and no provision in the Public Health Act was considered necessary.

Certain provisions of the Act have been extended to certain local areas in Coorg with effect from January 1, 1944.

Debt Conciliation.—S.15 of the Coorg Debt Conciliation Act, 1940, was originally framed on the model of s. 15 of the Central Provinces Debt Conciliation Act, 1933, according to which the terms of settlement agreed to between the debtor and the creditors which the Board should embody in writing is termed as an agreement. But later on, at the suggestion of the Government of India, s. 15 of the Coorg Act was modified on the lines of s. 19 of the Bengal Agricultural Debtors Act, 1935 (Bengal Act VII of 1936), under which the settlement to be embodied in writing by the Board is termed as an award. But consequential changes in other sections of the Act were not carried out due to oversight. S. 2 of Act No. II is intended to rectify these defects.

S. 32 of the Act provides for the exclusion of time during which the debt conciliation proceedings continued in calculating the period of limitation for suits on debts which are the subject of any proceedings under the Act. A question was raised at the October session of the Council urging that the time required by the creditor to receive the notice of the Board's decision and to enable him to proceed in the court should also be excluded. Though generally all the parties will be present when the award is drawn up there is no provision in the Act or the rules issued under it requiring either the parties to be present compulsorily or the Board to inform the creditors in writing of the decision of the Board. But the parties can obtain certified copies of the order of the Board. It is therefore proposed to amend the section on the lines of s. 27 of the Madras Debt Conciliation Act, 1936. S. 3 of the Act is intended for this purpose.

Tobacco.—Rule 17 of the Coorg Tobacco Rules, 1940, issued with notification No. A-1-4173/40, dated October 23, 1940, prescribes the limit of private possession of tobacco and its products by any person other than a grower or a licensee. But there is no provision in the Coorg Tobacco Act, 1940, either to prohibit such private possession in excess of the limit prescribed in the rule or to penalize the contravention of the rule. Act No. III therefore inserts a provision in the Act similar to s. 6 of the Madras Tobacco (Taxation of Sales and Licensing) Act, 1939 (Madras Act VIII of 1939).

S. 16 of the Coorg Act provides for penalty for contravention of the provisions of the Act only in certain cases, e.g., it does not provide for penalties in general for the contravention of any of the provisions of the Act and rules issued thereunder. The Act therefore revises this section on the lines of s. 24 (*a*), (*d*), and (*e*) of the Madras Act referred to above.

Irrigation Cess.—In Coorg prior to the enactment of this Act, Government had no power to levy any form of water rate on lands irrigated from Government irrigation works except with the consent of all the ryots affected. This at times led to great difficulties and made it impossible to undertake new irrigation works which are desired by a majority of the ryots affected, because a few refuse to agree to pay such a water rate. As an instance, it was with very great difficulty that a few of the ryots concerned in the Lakshmanathirtha project were persuaded to agree. If they had persisted in their refusal the whole project, estimated to cost about Rs. 1,66,000, might have had to be given up. It was therefore desirable to have some form of Irrigation Cess Act on the lines of the Madras Act whereby such a cess could be compulsorily levied on lands irrigated from a source which has either been newly constructed or substantially improved by Government, provided a majority of the ryots agree.

A further difficulty was experienced in the case of minor works—particularly tanks and channels which have been improved and put in order, generally with funds from the Rural Development Grant made by the Government of India. Such tanks and channels need constant attention if they are to be kept in order and the money spent on their improvement is not wasted. This is the duty of the ryots owning lands under the tanks, but it is very frequently neglected with the result that the tanks and channels fall into disuse again. It was felt that in

many cases the ryots would be willing to pay a small cess in such cases to provide money for the maintenance of the works. An Act on the lines of the Madras Irrigation (Voluntary Cess) Act, 1942, was therefore necessary.

Both these proposals were discussed by the Standing General Purposes Committee at its meeting held on July 10, 1942, and the committee was in favour of the proposals. It was, however, decided that in both cases the cess should only be imposed where and at such rates as ryots owning more than two-thirds of the area involved previously agreed.

The Act No. IV is intended to give effect to the above decision. In the case of the cess for the maintenance of tanks, etc., referred to in the second paragraph, it is the intention that the money collected by means of the cess would be spent solely on the work in question and separate accounts will be kept for each such work. If in any year the fund has an adequate balance, the cess will not be imposed or will be imposed at a reduced rate. Provision will be made for this in the rules, the framing of which is under consideration.

Rinderpest.—The Government of India, Department of Education, Health and Lands, forwarded a copy of the resolution passed by the Animal Husbandry Wing of the Board of Agriculture and Animal Husbandry in India at the meeting held in November, 1940, on the subject of effective control of animal diseases and requested the Provincial and State Governments to take steps to implement the resolution. The resolution is given below:—

> "That in the opinion of this Conference steps should be taken in those Provinces and States in which such legislation does not already exist, to introduce an enabling Act for the control of the contagious diseases of animals, on the lines of the draft model Bill circulated with the Note on item 15 of the Agenda for this meeting, with such modifications as may be found necessary."

The draft model Bill referred to in the resolution was a general Bill applicable to all kinds of animal contagious diseases. The Coorg Rinderpest Act provides an effective control over rinderpest only. In order to have similar control over all other animal contagious diseases, it was considered desirable to bring all such diseases under the purview of the Act. Instead of undertaking separate legislation to give effect to this, the obviously easiest way was to amend the existing Rinderpest Act so as to make it also applicable to any other disease which may be notified from time to time.

The present Act No. V is intended to give effect to this object.

VIII. EASTERN COLONIES

1. CEYLON

[*Contributed by* DR. W. IVOR JENNINGS, *Vice-Chancellor University of Ceylon.*]

CEYLON continued to be in the front line during 1943, but was spared serious visitations from the Japanese. Its legislation in that year therefore bears less evidence of war-time difficulties than it did in 1942. The State Council passed 61 Ordinances, and the Governor enacted two under his special power in Article 22 of the Order-in-Council. Of the 63 Ordinances, four may be classed as local and private, and 36 introduced minor amendments into existing legislation.

Governor's Ordinances.—The State Council, as usual, refused to provide passages for overseas officers and holiday warrants for Ceylonese officers. As usual, the Governor made the necessary provision (No. 52) under his special powers. This is a long-standing dispute. A new one arose out of the continued detention of certain former members of the now disbanded Sama Samajist party. The State Council having agreed that they should be released, deleted the

financial provision for their maintenance. By No. 33 the Governor, acting under his special powers, gave the necessary legal authority.

State Council.—In accordance with a resolution of the State Council, the Governor appointed a commissioner to examine whether any member of the Council had received any gratification, etc., as a reward or recompense for services rendered as a member of the Council or any committee thereof. He found that seven members, of whom three were European nominated members in receipt of allowances from the associations whom they were nominated to represent, came within his terms of reference. The three nominated members were called upon by the Governor to resign, and did so immediately, the Governor explaining that one of his predecessors had first suggested that the associations pay their members so as to secure adequate representation. Three of the others also resigned. To authorize the State Council to expel members in such circumstances, an amendment was made to the Order-in-Council, and under it the State Council (Expulsion of Members) Ordinance (No. 14) was passed. In substance it provides that a member may be expelled by resolution of the Council where under a commission appointed before June 7, 1943, or under a commission appointed after that date in consequence of a resolution of the Council or by a select committee he is found

(*a*) to have solicited, demanded, received, or accepted from any person, or to have offered to any other member, any gratification, whether by way of gift, loan, fee, or otherwise, as a reward or recompense for any services rendered to any person or cause, or for any action taken for the advantage or disadvantage of any person or cause, or in consideration of any promise or agreement to render any such services or to take any such action, in his capacity as a member of the Council or any committee thereof; or

(*b*) to have accepted or received from any person, or to have offered to any other member, either directly or indirectly, any fee, compensation, gift, or reward for or in respect of the promotion of or opposition to any bill, resolution, matter, or thing submitted or intended to be submitted for the consideration of the Council or any committee thereof.

A member may also be expelled where he is found by a court of competent jurisdiction to have acted in contravention of s. 20 of the State Council Powers and Privileges Ordinance, No. 27 of 1942.

The motion for expulsion must be introduced by the Leader of the Council or with the approval of the Board of Ministers, and must be dealt with according to House of Commons procedure.

Local Government.—The indigenous system of local government having long ago disappeared, the modern (democratic) system has no very firm roots, and difficulties constantly arise. One of these is indicated by the Urban Councils Amendment Ordinance, No. 5 of 1943. There being no party system and personal squabbles being not uncommon, votes of no confidence in chairmen are not infrequent. But what if a chairman who has lost the confidence of the Council refuses to resign? The Ordinance now provides that he may be removed at a special meeting convened by the Government Agent if two-thirds of the whole number of members pass a resolution for such removal. He will then be deemed to have resigned and a new chairman may be elected. If the necessary majority is not obtained, however, there may not be another such special meeting for six months.

Other difficulties are dealt with by the Urban Councils Amendment Ordinance, No. 37 of 1943, which amends the Urban Councils Ordinance, No. 61 of 1939. The principal difficulties, and the method of treatment, may be summarized as follows:—

(1) Whenever a personal dispute arises the dissident members are apt to

stay away and so prevent the council from obtaining a quorum. The Executive Committee is now authorized to alter the quorum.

(2) Cases have been known in which a chairman who has lost the confidence of his council refuses to hold meetings, and other cases in which a council has refused to obey the lawful orders of the Executive Committee. The Governor had power to remove the chairman, or remove all the councillors or dissolve the council, but had no power to remove individual councillors. He has now been given that power.

(3) The appointment and dismissal of officers is the subject which most frequently gives rise to contention. It is now provided that no executive officer (as defined by the Executive Committee) may be dismissed, suspended, fined, or reduced in status except on a resolution of two-thirds of the whole number of members.

Another difficulty is evidenced by the Public Bodies (Prevention of Corruption) Ordinance, No. 49 of 1943, which is on the lines of the English Prevention of Corruption Act, but which also imposes a disqualification on persons convicted of offences under its provisions.

Credit Facilities.—The Agricultural and Industrial Credit Corporation Ordinance, No. 19 of 1943, was reserved for the Royal Assent and assented to only on condition that the amendments passed in No. 20 of 1943 were accepted by the State Council. The Ordinances establish an Agricultural and Industrial Credit Corporation with power to grant loans for agricultural and industrial development; to manage, supervise, or control the undertaking of a client; to advise a client about the undertaking; to act as agent for the purchase of equipment; to insure undertakings; to establish and assist pension funds for employees; etc. It is a body corporate managed by a Board of Directors consisting of the Financial Secretary, the Minister for Labour, Industry and Commerce, and five others nominated by the Governor. If a State Councillor is nominated he must resign his seat. A sum not exceeding Rs. 3,000,000 may be advanced to it at the request of the Board of Ministers, and the corporation is authorized to raise money on debentures up to Rs. 50,000,000. An annual report must be submitted to the Governor.

Food Production.—The Food Production (Estates) Ordinance, No. 2 of 1943, requires every estate of more than 35 acres to put the following proportion of land under food cultivation:—

Tea estates	24 per cent.
Rubber, coconut, cacao, etc.	12 ,, ,,

The amount is halved where new land has to be opened for the purpose. The estate owner may, however, commute his liability by contributing Rs. 10 an acre to the Food Production Fund. This fund is administered by the Land Commissioner and is used for food production. It should be noted that under the Compulsory Food Production (Tax Relief) Ordinance, No. 10 of 1943, where land is specially cultivated to satisfy the terms of No. 2 of 1943, the capital expenditure incurred may be allowed as expenses for income tax and excess profits duty.

National Loans.—The National Loans Ordinance, No. 35 of 1943, authorizes a loan of Rs. 125,000,000 for emergency and post-war development purposes and the repayment of the three-year loan raised under the Home Defence Loan Ordinance, No. 2 of 1942.

2. ADEN

ADEN requires in war-time more legislation than has been necessary in the past. Thirty Ordinances received assent in 1943.

Indigenous Workers.—No. 2 made an amendment in the contracts of employment (Indigenous Workers Ordinance, 1942) by adding that employers shall, whenever possible, provide transport to the place of employment and insure that

vehicles or vessels used for the purpose are suitable and in good sanitary condition and not overcrowded. If it is necessary to break the journey for the night, then the employer is under an obligation to provide suitable accommodation. In the case of long journeys the employer also has to make the necessary arrangements for the welfare of the workers and, where possible, for medical assistance. If the journey has to be taken on foot the length of the daily journey is to be compatible with the maintenance of the health and strength of the workers. Workers making long journeys in groups are to be convoyed by a responsible person.

Government Guards.—No. 4, amended by No. 26, constitutes a body of Arabs to be known as the Aden Protectorate Government Guards. The Ordinance contains the constitution and government of the force, the rules relating to enlistment and discharge, and also provides for its discipline.

Civil Service Pensions.—No. 6 contains amendments to the Pensions (Subordinate Officers) Ordinance, 1941. The first is a provision that where there are more than six children, " then the aggregate of the pensions that are granted to all such children shall not exceed the aggregate which would be computed . . . in the case of the first six children, but shall be divided among all such children in such manner that each child whose mother is dead shall be granted a pension of double the amount granted to each child whose mother is alive."

Another amendment deals with the case of a subordinate officer who leaves a widow or widows and also children by marriage with a wife who has predeceased him. For the purpose of determining pensions the last is by the Ordinance to be " deemed to have died immediately after the officer."

Merchant Shipping.—The chief Ordinance of the session is a comprehensive consolidation measure dealing with the subject of merchant shipping. It repeals 17 Indian Acts dating from 1841 and now gives the Colony its own legislation on the subject.

Labour.—No. 16 is a general measure dealing with the relations of master and servant other than those which are covered by the Contracts of Employment (Indigenous Workers) Ordinance, 1942. It provides for contracts of apprenticeship and disputes between employers and servants as regards breach of contract.

Marriage.—After consulting the principal Moslem residents of the Colony, the Governor is authorized by No. 22 to appoint a fit person to be Qadhi of the Colony who will be responsible for the registration of Moslem marriages and divorces.

3. MAURITIUS

[It is hoped to include the review in the next issue.]

IX. WEST AFRICA

1. GAMBIA

Six Ordinances were passed in the year 1943 and there were 17 Regulations containing subordinate legislation.

Statute Law Revision.—No. 1 provides for a supplementary volume to the revised edition of the laws which came into force on January 1, 1943.

Criminal Law.—The procedure for the trial of petty criminal cases in subordinate courts is contained in No. 2.

Royal West African Frontier Force.—Ordinances made since June 30, 1939, are consolidated and extended in No. 3 so as to form one series of amendments to the principal Ordinance of 1924.

Pensions.—No. 4 provides for the payment of pensions and gratuities in respect to death or disablement on active service.

2. GOLD COAST

[*Contributed by* RAYMOND BROWN, ESQ.]

DURING the year 1943 twenty-eight Ordinances were passed of which seventeen were amending Ordinances. The following may be briefly described:—

War Pensions.—No. 1 enables the Governor in Council to make regulations in respect of the death or disablement of members of the armed forces, the nursing service or any other auxiliary service of His Majesty's Forces, the Civil Defence Service or any service or force declared to be a service or force for the purposes of the Ordinance.

Air Navigation.—No. 13 provides for the clearing, etc., of areas in close proximity to airfields in the interests of safety.

Kumasi Lands.—No. 17 re-vests in the Asantehene in trust for the Golden Stool of Ashanti and the Kumasi Division those Kumasi lands which had accrued to the Crown by right of conquest.

Kumasi Town Council.—No. 18 confers upon the town of Kumasi a more modern type of municipal constitution.

Accra Town Council.—No. 26 confers upon the town of Accra a more modern type of municipal constitution.

Income Tax.—No. 27, for the first time in history, introduces the principle of income tax into the Gold Coast.

Considerable use has been made during 1943 in matters of an urgent or temporary nature of the power of legislation conferred upon the Governor by the extension to the Gold Coast of the United Kingdom Emergency Powers (Defence) Acts. Some examples of this type of legislation are—

(*a*) The Defence (Rubber Production) Regulations, 1943 (No. 2 of 1943) which aim at increasing the production of the very necessary commodity of rubber.

(*b*) The Defence (Rent Restriction) Regulations, 1943 (No. 18 of 1943) which aim at preventing profiteering in rents by landlords.

(*c*) The Defence (Compulsory Civil Employment) Regulations, 1943 (No. 24 of 1943) which introduce the principle of compulsory service in civil employment.

3. NIGERIA

FORTY-EIGHT Ordinances, including many with minor amendments, were passed in 1943.

Shipping.—By an amendment of the Wrecks and Salvage Act, c. 105, No. 6 provides for a preliminary enquiry into shipping casualties.

Railways.—By an amendment of the Railways Ordinance, c. 110, No. 10 enacts that "a person connected with the direct working of a railway shall not be removed under arrest, whether in execution of a warrant or otherwise, while actually engaged in the performance of his duties until the head of the department in which he is employed or the officer in immediate charge of the work in which such person is engaged has been given an opportunity of providing a substitute."

Pensions.—No. 13 provides on the usual lines for pensions and gratuities to members of the Forces and auxiliary services and their dependents.

Native Administration.—Nine Ordinances are repealed by No. 17, which now contains, with amendments, the law relating to the establishment and appointment of Native authorities, their powers and duties, the legal proceedings to which they may be liable and the offences which may be committed in connection with their work. The Ordinance also provides for the incorporation of Native authorities, the functioning of administrative officers as such and

civil legal proceedings by and against them. Provision also is made in the Ordinance for the Native authority Police Force and its prisons.

A supplementary Ordinance is No. 18 which substitutes the term Native Authority for the term Native Administration, where it is used in legislation.

Public Health.—Venereal disease is the subject of legislation for the first time in the Colony, in No. 19.

Supreme Court.—Thirteen Ordinances are repealed by No. 23, though the schedule appears to be headed by the incorrect number of the section. A large number of other Ordinances are verbally amended by the Ordinance of which the object is to merge the Supreme Court of Nigeria and the High Court of the Protectorate of Nigeria into a single court having jurisdiction throughout the Colony and Protectorate.

Magistrates.—No. 24 is a measure corresponding with the preceding to deal with the Magistrates' Courts and the appointment of Justices.

Juries.—Arrangements for trial by jury are incorporated in No. 25. The verdict on the trial of any capital offence must be unanimous. On the trial of any other offence no verdict other than a unanimous verdict shall be accepted within two hours after the jury began to consider their verdict. " On the trial of an offence other than a capital offence, if, on the expiration of two hours from the time when the jury began considering their verdict the jury are agreed in the proportion of seven to one or six to two, the verdict of such majority shall be taken and have effect as the verdict of the jury."

Evidence.—The existing law as contained in the Criminal Procedure and Criminal Codes on the subject of evidence is consolidated and amended in No. 27. The following sections may be of general interest.

56. (1) When the court has to form an opinion upon a point of foreign law, native law or custom, or of science or art, or as to identity of handwriting or finger impressions, the opinions upon that point of persons specially skilled in such foreign law, native law, or custom, or science or art, or in questions as to identity of handwriting or finger impressions, are relevant facts.

(2) Such persons are called experts.

57. (1) Where there is a question as to foreign law the opinion of experts who in their profession are acquainted with such law are admissibly evidence thereof, though such experts may produce to the court books which they declare to be works of authority upon the foreign law in question, which books the court, having received all necessary explanations from the expert, may construe for itself.

(2) Any question as to the effect of the evidence given with respect to foreign law shall, instead of being submitted to the jury, in the case of trial with a jury, be decided by the judge alone.

58. In deciding questions of native law and custom the opinions of native chiefs or other persons having special knowledge of native law and custom and any book or manuscript recognized by natives as a legal authority are relevant.

Income Tax.—Although the Income Tax Law was consolidated in 1940, it is re-enacted in No. 29 with further amendments.

Labour.—Conditions of employment and the fixing of a minimum wage are provided for in No. 40 on the lines of the suggestions made by the Colonial Office.

Juvenile Offenders.—The treatment of young offenders and the establishment of Juvenile Courts are the subjects of No. 41, on the lines of English legislation.

Provident Funds.—No. 44 is an amending measure validating the proceedings of the Board of the Railway Servants Provident Fund.

Nine Ordinances dealing with Provident Funds are repealed by No. 45, which now contains the law on the subject.

4. SIERRA LEONE

[It is hoped to include the review in the next issue.]

X. EAST AFRICA

1. KENYA

[*Contributed by* The Hon. T. A. Brown, *Solicitor-General, Kenya.*]

Ordinances passed forty-two.

The following is a summary of the more important enactments of general interest passed during the year 1943.

Trade Unions.—No. 1 consolidates and amends the law relating to Trade Unions so as to bring the same into closer conformity with that existing in the United Kingdom and in other parts of the Empire.

Photostatic Copies.—No. 5 provides for the taking of photostatic copies of instruments and documents which under any law for the time being in force in the Colony are required to be registered.

Employment of Servants.—No. 10 exempts juveniles from the penal provisions of the Employment of Servants Ordinance, 1937, so as to conform with the provisions of the Penal Sanctions Convention that His Majesty's Government was about to ratify on behalf of the Colonial Empire generally.

Soil Erosion.—No. 11 consolidates and amends the law relating to the Preservation of the Land and Water Resources of the Colony, and gives wide rule-making powers to the Governor in Council to require occupiers of land to take certain steps to protect the land and the water resources.

Co-operative Societies.—Under No. 24 of 1931 registration was restricted to societies of producers of agricultural products and societies of a kindred nature. No. 16 removes that restriction by amending the definition of "co-operative society" so that in future it will be possible to register all societies and associations which have as their objects the promotion of the economic interests of their members in accordance with co-operative principles.

Palm Wine.—No. 23 is designed to control more efficiently the manufacture and sale of palm wine in the Coast Province, and to prevent the wasteful destruction of coconut palms through excessive tapping.

Sugar Consumption Tax.—No. 25 imposes a tax of 1 per cent. per pound on sugar consumed in the Colony.

Probation of Offenders.—No. 29 provides for the institution of a probation system in the Colony.

Legislative Council.—No. 34 (*a*) makes provision for a member of the Armed Forces to be registered although he has not been resident in the electoral area for a period of not less than three months preceding the date of his application to be so registered; and (*b*) amends the law so as to provide that a person may register himself as a voter either in the electoral area in which he resides or in the electoral area in which he normally carries on business or is employed.

Compulsory National Service.—No. 36 places liability for compulsory service (whether in a military or a civil capacity) on a broader basis, and provides machinery for calling up.

Housing.—Ordinance No. 41 provides for loans of public moneys for the construction of dwellings and for matters incidental thereto. The Ordinance makes provision for the Government to establish a Housing Fund and from such fund to grant or advance money to local authorities at such rates of interest as may be prescribed which may be lower than the normal rate, or for local authorities to borrow money from other sources for the carrying out of the approved schemes of building. Provision is also made for the Government to share with the local authorities any financial loss that may result from the letting at sub-economic rates of rental or houses erected in accordance with approved scheme. The Ordinance also provides for the appointment of a Central Housing Board whose duty it shall be to enquire into and report upon housing schemes and to assist in their preparation.

2. NYASALAND PROTECTORATE

[It is hoped to include the review in the next issue.]

3. SOMALILAND PROTECTORATE

[*Contributed by* MAJOR PATERSON.]

SIX Ordinances were enacted in 1943.

Military Units.—No. 1 provides for the establishment in Protectorate of military units by the Governor with the approval of the Secretary of State.

His Majesty's Forces.—No. 2 empowers the Governor to place all or any of the military forces of the Protectorate under the orders and directions of the Army Council. It is retrospective to September 3, 1939.

Miscellaneous Proclamations (Revocation).—No. 5 revokes a number of proclamations given by the military authorities on the re-occupation of the Protectorate in March, 1941, and subsequently validated by Ordinance. They were designed to meet the abnormal conditions existing at the time and are now no longer regarded as necessary.

Mineral Oil Mining.—No. 6 is based on the usual Colonial model and empowers the Governor to issue licences and leases for exploring, prospecting, mining for or winning any mineral oil in the Protectorate from any land.

4. TANGANYIKA TERRITORY

[*Contributed by* H. H. KINGSLEY, ESQ., *Crown Counsel.*]

TWENTY-THREE Ordinances were enacted in 1943 and of these the following are the more important:—

War Revenue (Income Tax).—No. 1 is a comprehensive measure designed to tighten up the collection of income tax and close up certain loopholes by which it was apparent the revenue was being deprived of its rightful dues. It amends the 1940 Ordinance in several respects, among which may be mentioned the better provision for the prevention of owners of private companies manipulating the distribution of dividends so as to avoid in any year the higher rate of tax applicable to individuals. It also *inter alia* increases the penalties for income tax offences and increases the time limit during which those offences can be prosecuted.

Trades Licensing (Ineligible Persons).—No. 3 amends the original Trades Licensing Ordinance by forbidding the issue of trading licences to minors and purdah women. It further provides that where a trader is convicted of dishonest practices, the court can cancel his licence and disqualify him from holding another for such period as it thinks fit. The necessity for this Ordinance arose from what was believed to have been a frequent occurrence both in Tanganyika and the neighbouring territories, whereby traders who had been convicted of dishonest practices used to take out licences in the name of some complacent relative who was a minor or a purdah woman and so both evaded their contractual responsibility and at the same time secured for their business transactions immunity from judicial investigation.

Employment of Women and Young Persons.—No. 4 was introduced at the instance of the Secretary of State and it amends the 1940 Ordinance by prohibiting the employment of children under twelve years of age except in the company of their parents and on light work of an approved description.

Land (Restriction of Transfer).—No. 7 is designed to control the disposition of land in the possession of non-natives until the present war has ended and more settled conditions have arisen thereafter. Its principal provision enacts that land in the possession of non-natives is not to be transferred without the consent

of the Governor. The restrictions imposed by the Ordinance will cease to operate one year after the ending of the war.

Penal Code.—No. 16 *inter alia* brings our law into accordance with the law of England by raising the age limit under which no person can be sentenced to death to eighteen years.

5. UGANDA PROTECTORATE

FIFTEEN Ordinances were passed in the year.

Intoxicating Liquors.—No. 1 prohibits the manufacture, sale, consumption and possession of Waragi, which means any native spirituous liquor, whether made by a native or any other person and includes any drink containing such liquor.

Master and Servant.—By an addition to the Masters and Servants Ordinance No. 3 makes it an offence to induce servants to quit the service of an employer. Another offence which is added is to make any brawl or disturbance in or at the employer's dwelling house or other premises or on the employer's farm.

Child Adoption.—Arrangements are made for the adoption of children on the lines of English legislation by No. 5.

Cinematographs.—The making and exhibiting of cinematograph pictures and the licensing of cinematograph theatres are dealt with in No. 6.

Plays and Entertainments.—A complementary Ordinance to No. 6 is No. 7, which provides for the regulation and control of stage plays and public entertainments. The former are defined to include any tragedy, comedy, farce, opera, burletta, interlude, melodrama, pantomime, dialogue, prologue, epilogue, or other dramatic entertainment or any part thereof. A public entertainment includes any concert, animal or circus performance, waxworks, puppet performance, dancing exhibition, picture or art exhibition, games of skill or chance, acrobatics or other exhibitions of skill, professional wrestling and boxing bouts to which the public are admitted either gratuitously or otherwise, but shall not include athletic games or sport.

Rent Restriction.—No. 8 controls the rents of dwelling houses and business premises on the lines of English legislation.

Trade Unions.—Trade Unions may be formed and trade disputes dealt with under the authority of No. 9, which follows on the lines of legislation adopted elsewhere at the suggestion of the Colonial Office.

Income Tax.—The Income Tax Ordinance of 1940 is amended and additions made to it by No. 11, especially in reference to the taxation of companies.

Cattle Trading.—Cattle traders within the Protectorate are to be licensed by No. 12 which also gives power to the Governor on the advice of the Director of Veterinary Services to prohibit or restrict the movement of cattle.

6. ZANZIBAR

EIGHTEEN Ordinances mainly consisting of small amendments were passed in 1943.

Penal Law.—Any person giving evidence on any subject in open court in any judicial proceeding whether civil or criminal for the High Court renders himself liable by No. 3 to imprisonment for three months or a fine not exceeding 300s. when, in the opinion of the Court before which the Judicial proceeding is held, he gives false testimony touching any matter which is material to any question then depending in that proceeding or intended to be raised in it. Similarly he is liable as for contempt if he knowingly makes, or is proved to have made, two or more contradictory statements of fact or alleged fact upon a material issue either at the same examination or at two or more examinations, and whether such contradictory statements have been made before the High Court only or

before the High Court and before any other Court or Courts, and whether the respective truth or falsehood of the said statements can be ascertained or not.

Factories.—The supervision of factories is committed to a Factories Board constituted by No. 8.

XI. SOUTH ATLANTIC

1. BRITISH GUIANA

[*Contributed by* A. C. BRAZAO, ESQ., *Crown Counsel.*]

TWENTY-NINE Ordinances were enacted during the year 1943. The principal of these are:—

Bank Notes.—No. 2 amends the Bank Notes Ordinance (c. 51) to empower the Governor by Order in Council to direct limitations to the extent specified in the Order on the amount of notes which may be issued by bankers.

Excess Profits Tax.—No. 4 terminates the exception given under the Excess Profits Tax Ordinance, 1941 (No. 1), to persons engaged in mining industries from payment of excess profits tax. There is also provision for a special allowance for amortization of capital expenditure incurred in increasing the production of any mineral of exceptional importance for the prosecution of the war.

Income Tax.—No. 5 complements Ordinance No. 4 by making provision for the deduction of amounts allowed for amortization of capital expenditure when ascertaining chargeable income.

Customs Duties.—Four Ordinances, Nos. 6, 7, 13 and 12, amend the Customs Duties Ordinance, 1935 (No. 23). The first reduces the export duty on bauxite to 1½ per cent. *ad valorem*. This reduction is consequential on the termination of the exemption of mining companies from the payment of excess profits tax (Ordinance No. 4). No. 7 reduces the general rates of duty payable in respect of petroleum products, other than lubricating oil, to the same level as the British preferential rates, and also reduces materially the landed cost of certain articles in daily use in order to lower the cost of living index. No. 13 reduces the rates of duty on cattle and poultry foods, while No. 23 reduces the rates of duty on salt but increases still further rates on such luxuries as spirits.

Trades Unions.—No. 8 amends the Trades Unions Ordinance (c. 57) to bring the local law relating to the subject more in line with English legislation. Provision is made for compulsory registration and for further immunity from criminal and civil proceedings.

Recruiting of Workers.—(No. 9.) This Ordinance is designed to prohibit the recruiting of workers by professional recruiting agents except under licence. It also provides safeguards for the health and welfare of the workers to be recruited. The Ordinance gives effect to the Convention concerning the Regulation of Certain Special Systems of Recruiting Workers adopted by the International Labour Conference in June, 1936.

Mariners' Club (Georgetown).—A club for seamen was erected at Georgetown which will be maintained out of funds provided by public subscription and by Government grants and the main purpose of No. 10 is to provide for the vesting in trustees of the club premises and for the incorporation of the trustees.

Land Settlement.—No. 14 applies the provisions of the Acquisition of Lands for Public Purposes Ordinance (c. 170) to the acquisition of any land required for the purpose of a Government land settlement scheme.

Bastardy.—No. 15 amends the Bastardy Ordinance (c. 147) by making better provision for the collection and recovery of moneys due under affiliation orders. Provision for the appointment of collecting officers and definition of their duties are features of the Ordinance.

2. BRITISH HONDURAS

EIGHTEEN Ordinances were passed in the year and consisted mainly of minor amendments.

Labour.—No. 6 repealed the previous legislation dating from 1924, upon the relations between masters and servants and now includes with amendments the law on the subject.

No. 7 amends the Workmen's Compensation Ordinance 1942 so as to exclude war injuries.

Education.—No. 9 amends the Education Ordinance, 1926, so as to authorize the Governor to appoint a Director of Education.

Defence Force.—The name of the British Honduras Defence Force is changed by No. 12 to the British Honduras Battalion of the North Carribean Force and a general service liability imposed on it.

A Volunteer Guard is created by No. 15 as a Volunteer Defence Force.

Shop Hours.—The law relating to the employment of persons in shops and the control of the hours is now contained in No. 18, which accordingly repeals a number of provisions in previous legislation.

3. FALKLAND ISLANDS

OF the six Ordinances passed during the year 1943, the first was a consolidation of the law relating to Customs and took the place of six previous Ordinances dating back to the year 1903.

Tariffs.—No. 2 was also a consolidating Ordinance, though not described as such and repealed the Tariff Ordinance 1900 and all amending ordinances. The law making provision for the raising and collection of import and export duties is now contained in it.

No. 5 also deals with the tariff by imposing a duty on the export of whale and seal oil.

Statute Law Revision.—Provision is made by No. 3 for the preparation and publication of a revised edition for the laws of the Colony. Mr. B. A. Cathie, the Legal Adviser, is appointed Commissioner to prepare the revision.

Finance.—Nos. 4 and 6 deal with the Finances of the Colony.

4. ST. HELENA

SIX Ordinances were passed in 1943.

Midwives.—The Midwives Ordinance, 1941, is repealed and new provisions made for their registration in No. 4.

Entertainment Tax.—No. 6 raises money by means of an entertainment tax.

XII. WEST INDIES

1. THE BAHAMAS

THIRTY-SIX Acts were passed in the year and among them were three of a personal character granting pensions to individuals. A number of the remainder only effected amendments of a minor character.

Trade Unions.—The Combination of Workmen (No. 2) Act, c. 264, is repealed by No. 9, which now contains the law relating to Trade Unions on the lines of English legislation.

Legislative Bodies.—The acceptance of an office or place of profit under the Crown during the war by No. 13 does not vacate the office of Speaker or Deputy Speaker of the House of Assembly. No. 14 makes a similar provision in respect to the members.

Savings Certificates.—No. 15 authorizes the raising of money in the Colony by the issue of Savings Certificates.

Prisoners.—The Prisoners' Act, c. 19, and all Acts amending the same, are repealed by No. 22, which now makes provision for the prisoners in the Colony and deals with such matters as the employment of prisoners and corporal punishment for prison offences.

Sisal.—An agreement between the Defence Supplies Corporation, an agency for the United States of America, and the Government of the Islands in respect to the supply of Agave fibres is confirmed by No. 24.

Workmen's Compensation.—No. 25 is on the lines of English legislation to provide for the payment of compensation to workmen for injuries suffered in the course of their employment.

Motor Cars.—The Motor Car Act, c. 119, is repealed and re-enacted with amendments in No. 26, which deals with the registration and licensing of motor cars and their drivers.

Taxi Cabs.—The Taxi Cab Act, c. 123, is amended and re-enacted in No. 27, which supplements the Motor Car Act.

Riots.—The Governor in Council is authorized by No. 28 to appoint a Claims Tribunal consisting of a President, who shall be a member of the legal profession, and two members to deal with claims for damages sustained in the course of any riot.

2. BARBADOS

Of the 49 Acts passed during the year a large proportion were local and personal in character while others only made small amendments.

Workmen's Compensation.—No. 2, which was amended by 47 to exclude war injuries introduces legislation to deal with Workmen's Compensation on the lines of English law.

Education.—By an amendment of the Education Act, 1890, No. 17, No. 3 establishes a Department of Education with a Director and staff as well as a Board to be styled the Education Board.

Nurses.—No. 6 incorporates the Barbados Registered Nurses Association.

Trade Unions.—The amendment to the Trade Union Act, 1939, No. 62, is made by No. 9 so as to provide for conspiracy in trade disputes.

Sugar.—A series of Acts from 1907 dealing with the Sugar Industry Agriculture Bank are consolidated in No. 15 at the request of that body and at the same time its powers extended as regards the making of loans for carrying on the management of sugar industries.

The six Acts dealing with the eradication of mosaic disease are consolidated with amendments in No. 29. Sugar cane mosaic disease is defined to mean the disease of sugar cane and related plants caused by the sugar cane mosaic virus.

Love Vine.—The Acts of 1911 and 1933, which deal with the eradication of love vine are consolidated with amendments in No. 27. Love vine is defined to mean any plant or part thereof of the genus cusuta.

Labour.—The Labour Officer Act, 1918, with its amendments of 1939 and 1940, now become merged in No. 28 as the Labour Department Act establishing a department with the Labour Commissioner at the head of it. It deals with the legislation relating to the closing of shops, seats for shop assistants, minimum wage, the employment of women, young persons and children and the recruiting of workers.

The Labour Minimum Wage Act 1938 is repealed by No. 32, which provides for the establishment of Wages Boards and for the regulation of the wages of persons employed in trades.

3. JAMAICA

THIRTY-SEVEN Ordinances were passed in the year, and in that number were included local and personal as well as private.

Coinage.—The Currency, Coinage and Legal Tender Law, c. 274, is repealed by No. 3 of 1943, which is to be cited as the Currency, Coinage and Legal Tender Law, 1942, and now contains the law on the subject.

Statute Law Interpretation.—The Interpretation Law, the English Laws in Force Law and eight others of a similar character are repealed by No. 17 of 1943 which, with amendments, now contains the law relating to the construction of orders in council, laws, proclamations, regulations, by-laws, and other instruments of a public character and for shortening the language used in them.

Jury.—By an amendment of the Jury Law, c. 443, No. 19 deals with the number of jurors in criminal cases.

Diseases of Animals.—No. 22 repeals four previous laws dealing with diseases of various animals and re-enacts the provisions with amendments. In the definitions " bird " does not include poultry, which means domestic fowls, turkeys, geese, ducks, guinea fowls and pigeons. It is specifically provided that " nothing in this law shall apply to bees."

Dentists.—The Dental Practitioners Law, c. 25, is repealed by No. 29, which now makes provision for the registration of dentists and for other matters in relation to the practice of dentistry.

4. LEEWARD ISLANDS

[It is hoped to publish the review in the next issue.]

5. WINDWARD ISLANDS

(i) GRENADA

FOURTEEN Ordinances were passed in 1943.

Labour.—No. 5 dealt with the settlement of trade disputes on the lines suggested by the Secretary of State, and No. 6 supplemented it on the same subject while regulating the Constitution of Trade Unions.

Public Trustee.—No. 10 provides for the appointment of a Public Trustee and the establishment of his office with the usual powers and duties.

(ii) SAINT LUCIA

[It is hoped to publish the review in the next issue.]

(iii) SAINT VINCENT

[*Contributed by* S. J. BAIN, ESQ.]

Customs Duties.—No. 1 replaces items 15 (*a*) and 74 of the First Schedule to the Customs Duties Ordinance, c. 184, amends item 2 of Table B of the Second Schedule, and repeals No. 11 of 1939.

Excise.—No. 2 amends s. 3 of c. 188, which prescribes the excise duty on Rum, and repeals No. 30 of 1940.

War Tax.—No. 3 provides for the collection of an additional tax on goods subject to Customs Duties (with certain exemptions).

Export Duties.—No. 4 provides for the imposition of additional Export Duties on certain articles and animals and repeals No. 27 of 1940.

Harbour Dues.—No. 5 provides an amended schedule of rates under c. 202.

Tonnage Dues.—No. 6 amends ss. 2 and 9 of c. 203 for the purpose of collecting increased dues.

Trade Unions.—No. 7 adds to No. 22 of 1933 a new section dealing with conspiracy in relation to trade disputes.

Workmen's Compensation.—No. 8 amends Ordinance No. 21 of 1939 by adding a new section dealing with compensation in respect of war injuries.

Public Health.—No. 9 repeals and replaces s. 70 of No. 9 of 1927.

Registration of Documents.—No. 10 amends No. 30 of 1937 by adding a new section dealing with proof of handwriting in cases where the party or witness is dead or absent from the Colony.

Education.—No. 11 provides for the establishment of a Saint Vincent Agricultural Scholarship at the Imperial College of Tropical Agriculture, Trinidad.

Income Tax.—No. 12 introduces a new schedule of rates and empowers the Governor, in deserving cases, to remit any tax which may be payable.

No. 13 repeals the Income Tax (Surtax) Ordinance, No. 28 of 1940.

No. 23 extends the time within which objections against Income Tax Assessments may be lodged.

Companies.—No. 14 provides the machinery for alteration of its objects by a company.

Shop Hours.—No. 15 enacts certain minor amendments to No. 1 of 1942.

Public Health.—No. 16 amends No. 9 of 1927 by providing authority to make regulations with respect to kitchens and other cooking plans.

Housing.—No. 17 amends s. 2 of c. 181 so as to ensure that houses in the Murray Road area are used only as dwellings.

No. 33 regulates the building, alteration and reconstruction of houses situate within a certain portion of the Montrose Estate.

Friendly Societies.—No. 18 amends s. 9 of c. 159 so as to enable societies whose general meetings are held at infrequent intervals to effect a change of Rules within a reasonable time.

Aerodromes.—No. 19 provides against obstructions in the neighbourhood of aerodromes.

Factories.—No. 20 makes provision for the Registration and Supervision of Factories and for the safety of workers employed therein.

Cotton.—No. 22 amends s. 2 of c. 37 by deleting the proviso to the definition of the term "Occupier."

Licences.—No. 24 provides for the easy identification of carts by registration and numbering.

Stamp.—No. 25 exempts Officers of His Majesty's Forces from payment of Stamp Duties on cheques drawn against the funds of such forces.

Motor Vehicles.—No. 26 exempts vehicles used exclusively in the service of His Majesty's Armed Forces, and members of the said forces employed in driving the same, from the fees and duties prescribed by No. 20 of 1940.

Legislative Council.—No. 27 amends c. 110 so as to legalize the preparation of a new Register of Voters to come into force on January 1, 1944, and for revision thereof trienially thereafter.

Passenger Boats.—No. 28 amends c. 201 so as to provide for the payment of a reduced licence fee by owners of boats operating from the island of Union, Canouan and Mayreau.

Factories.—No. 29 corrects an error in Ordinance No. 20 of 1943, with respect to the penalty for operating an unregistered factory.

Land Tax.—No. 30 re-imposes, during 1944, an additional acreage tax on land.

6. TRINIDAD AND TOBAGO

[It is hoped to publish the review in the next issue.]

XIII. MEDITERRANEAN

1. GIBRALTAR

[*Contributed by* A. McKisack, Esq., *Attorney-General.*]

Twenty-five Ordinances were enacted during the year 1943, the more important of which were the following:—

Personal Injuries.—No. 4 provides for the making of a scheme for payments in respect of war injuries sustained during the present emergency.

Poor Prisoners' Defence.—No. 14 provides for legal aid at public expense to be afforded to poor persons committed for trial for an indictable offence or charged in a court of summary jurisdiction with an offence punishable with imprisonment exceeding one month.

Trial of Special Offences.—No. 19 provides that trials for treachery shall be held by the Chief Justice sitting without a jury.

Removal of Detained Persons.—No. 22 empowers the Governor to arrange for a person detained in Gibraltar under Defence Regulations to be removed from Gibraltar for detention in the United Kingdom or any territory to which the Emergency Powers (Defence) Acts of the United Kingdom have been extended.

Public Trustee.—No. 23 creates the office of Public Trustee and defines his powers and duties.

Registration of Civilians.—No. 25 requires all civilians (subject to certain exceptions) to be registered and to be issued with identity carnets.

2. CYPRUS

[*Contributed by* The Hon. Stelios Pavlides, K.C., *Attorney-General.*]

During the year 1943 there were enacted 25 laws, but most of them were amending laws. Among these there may be noted:—

Agricultural Debtors.—Law 4, amending the Agricultural Debtors Relief Laws, 1940 and 1942, with the main object of simplifying the procedure and removing certain difficulties experienced in the application of the principal Law.

Companies.—Law 15, amending the Companies (Limited Liability) Laws, 1922 to 1940, introducing provisions regarding the amalgamation of companies.

Income Tax.—Law 22, amending the Income Tax Laws, 1941 to (No. 2) 1942, raising, *inter alia,* the tax payable by bachelors and companies and the tax on incomes over £2,000.

Of the new laws there may be noted:—

War Loan.—No. 11 enables the raising of a loan of a sum not exceeding £500,000 by the issue of 50,000 bonds of the value of £10 each; each bond has attached to it interest coupons, the rate of interest being 1 per centum per annum. The Law provides for the drawing by lot of a number of bonds in each year and the bonds so drawn are then redeemed at a premium; bonds not drawn are redeemable at par on August 1, 1963.

Regulations made under this Law make provision for four drawings in each year; at each drawing there are drawn the numbers of eighty-six bonds, the bond bearing the number first drawn being redeemable at £500, including premium; other bonds are redeemable at proportionately smaller rates.

The whole of 50,000 bonds were issued and the loan was fully subscribed.

Intoxicating Liquors.—No. 20 incorporates into one amending and consolidating enactment the Laws relating to the sale of intoxicating liquors.

Savings Certificates.—No. 21 enables the Governor to borrow by the issue of Savings Bonds and Savings Certificates.

Regulations made under this Law provide that the bonds shall be for one or more units of five pounds and the certificates for one or more units of fifteen

shillings, and no individual can hold more than 200 units of bonds nor more than 500 units of certificates.

The bonds bear 3 per cent interest and are redeemable seven years after the date of issue with an added shilling for each bond as bonus; the interest is payable annually and is free of income tax.

The certificates are redeemable ten years after the date of issue at the price of one pound and four piastres, including compound interest and bonus free of income tax; provision, however, is made enabling the Treasurer to redeem any certificate at any time at a price calculated in accordance with a table setting out the price of redemption with reference to the year of issue and the year in which the certificate is presented for redemption.

XIV. MIDDLE EAST

1. PALESTINE

[It is hoped to publish the review in the next issue.]

2. TRANS-JORDAN

[*Contributed by* A. L. GARDINER, ESQ., *Judicial Adviser.*]

TWENTY-SEVEN laws were passed during 1943. Of these eleven were financial and twelve amended existing legislation. The four remaining laws were as follows:—

Family.—In 1927 a law was passed based on Turkish legislation dealing with Moslem Family Law. This law is repealed by No. 13, with the result that such matters are now regulated by the ordinary provisions of Moslem Religious Law.

Fisheries.—Owing to the development of the fishing industry at the port of Aqaba, it was found necessary to regulate fishing on the lines of the Palestine Fisheries Law in No. 25, as the existing Turkish legislation was found to be inadequate.

Landlord and Tenant.—Legislation first introduced in 1941 on this subject was found to be inadequate, and No. 26 replaces former legislation and provides comprehensively for the protection of tenants.

Military Penal Law.—The Arab Legion, which is the local police force, has now been extended into a military force and No. 27 provides for its discipline on the lines of the Army Act.

Eight cases were decided by the Diwan Khas during the year, all being of purely local interest.

Numerous matters continued to be regulated by regulations and orders under the Defence Law, the most important being Motor Transport, and Food Distribution.

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